

STATE OF OHIO
DEPARTMENT OF PUBLIC WELFARE
COLUMBUS



LAWS GOVERNING DIVISION OF
MENTAL HYGIENE

HOSPITALS FOR MENTALLY ILL
MENTALLY DEFICIENT AND EPILEPTIC

INSANE, MENTALLY DEFICIENT AND
PSYCHOPATHIC OFFENDERS

October, 1945

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F. J. Heer Printing Company
Columbus, O.
Bound at State Bindery
1945

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DEFICIENT AND EPILEPTIC

INSANE, MENTALLY DEFICIENT AND PSYCHOPATHIC
OFFENDERS

Sec. 1890-1. Repealed. (119 v. 639. Eff. July 28, 1941.)

Sec. 1890-2. Intent and purpose of act. The intent and purpose of this act is to provide humane and medical treatment and care, preventive and curative, for mentally ill, insane, feeble-minded and epileptic persons, to promote the study of the causes of mental illness, insanity, feeble minds and epilepsy, with a view to the earliest possible cure and ultimate prevention; to protect the people of Ohio from the ultimate danger and unnecessary expense that results from placing in a penal institution insane and mentally defective persons who require for their own safety and the protection of society, present and future, treatment or detention in a hospital for the mentally ill or insane; to secure, by uniform and systematic management and treatment, the highest attainable degree of economy and efficiency in the administration of the state institutions defined in this act consistent with the objects in view. (117 v. 552. Eff. Jan. 1, 1938.)

Secs. 1890-3, 1890-4, 1890-5. Repealed. (119 v. 113. Eff. July 28, 1941.)

Sec. 1890-6. Repealed. (Am. Sub. S. B. 48, Eff. Oct. 11, 1945.)

(See Sections 154-60, 154-60bb, 154-60c, and 154-60f G. C. for establishment of division; duties; officers and employees; qualifications; advisory council.)

(See Section 1835 G. C.—Institutions under control of department.)

(See Section 1842 G. C.—Control of institutions; appointment of managing officers; appointment of institution employees.)

Sec. 1890-7. **Director shall administer laws governing hospitals; superintendent guardian of patients; major operations; correspondence of patients and visits to.** The director of public welfare, with the assistance of the commissioner of mental hygiene, shall administer the laws relative to persons in institutions under this division, and shall prepare rules and regulations governing this division, the institutions it controls, manages and supervises, and employees thereof. They shall provide for the efficient, economical and humane management, and shall establish bylaws and regulations for the government of all institutions within their respective jurisdictions. They shall ascertain by actual examination and inquiry whether commitments are made according to law.

The superintendent or person in charge of a state hospital, receiving hospital or any hospital operated by the state shall be the guardian of the person of the patients committed to such hospitals for the purpose of retaining them therein. The superintendent of the hospital shall have exclusive custody and control of the person of the patient during the period of time he is detained for observation or treatment or both, whether a guardian of the person of said patient has been appointed or is appointed by any probate court. Such superintendent shall also be guardian of the person of the patient for the purpose of release on trial visit and shall retain the right of custody during the period of such trial visit. Such superintendent shall have the right to determine the place of abode of such patient while on trial visit irrespective of the existence of a guardian of the person appointed by the probate court.

Before proceeding with any major operation which in the judgment of the superintendent of the institution is advisable or necessary, the superintendent shall notify or cause to be notified the patient's personal or family physician and the spouse, parent or guardian or one of the next of kin residing in Ohio, if such information is shown by the records on file with the superintendent; except that in cases of grave emergency where the medical staff feels that surgical or other intervention is necessary to prevent serious consequences or death, authority is hereby given to proceed with such measure.

Persons committed to or detained in any institution or other facility authorized by this act, and controlled and supervised by the department of public welfare, shall have the privilege of freely writing to and corresponding with their relatives, friends, physicians and legal advisers, and they may also receive visits from them, except when it is deemed inadvisable by the superintendent or person in charge of such institution, and in such instances, the superintendent shall place on file in the institution, subject to departmental inspection, a written assignment of the reason for not permitting such correspondence, writing or visits. The patient's personal or

family physician shall be admitted at all times. (*Am. Sub. S. B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-8. **Scientific investigations; reports on.** The division shall institute and encourage scientific investigation by the medical staffs of the various institutions and shall publish from time to time bulletins and reports of the scientific and clinical work done therein, and shall prescribe to the superintendent or head of each institution the forms of, and the periods covered by, the statistical returns to be made by them in their annual reports. (*117 v. 551. Eff. Jan. 1, 1938.*)

Sec. 1890-9. **Bureau of prevention and education.** There shall be a bureau of prevention and education under the supervision of the commissioner of mental hygiene. The bureau shall:

Make studies and investigations concerning causes of mental diseases, mental deficiency, epilepsy and other forms of mental deviation, practicable measures of prevention, and the effectiveness of different types of care and methods of treatment, and shall encourage, guide and coordinate such research by the staffs of the state institutions for mental patients;

Promote and develop a statewide comprehensive system of mental hygiene and psychiatric clinics, establish resident and traveling clinics to serve communities where local clinical facilities are lacking or inadequate;

In cooperation with other departments and agencies, disseminate information as to mental hygiene and psychiatric facilities and services, including institutions and clinics provided for the counsel, care and treatment of those in need thereof;

Perform such other duties as may be assigned to it by the commissioner of mental hygiene. (*Am. Sub. S. B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-10. **Bequests; account to auditor of state; trustees of.** The director of public welfare, with the approval of the advisory council, for the purpose of taking, holding and administering in trust for the state of Ohio, shall have the authority to receive any grant, devise, gift or bequest, made either to the state of Ohio, or to it for the use and benefit of persons under its control in any hospital or institution, or for any hospital or institution under its control, or if the trust so provides, for expenditure upon any work which the division of mental hygiene is authorized to undertake.

The division must annually account to the auditor of state for all moneys or property received or expended by virtue of this section which account shall state the source of the moneys or property received with the actual date of its receipt, the particular use or place for which it was expended, the balance on hand showing the place of deposit of the un-

expended balance. This account must be accompanied by a statement certified by the depository showing as to each depository the fund deposited there to the credit of the trust. All accounts filed by the division hereunder shall be recorded by the auditor of state. All such accounts, as well as the record thereunder, shall be open to the public inspection. The governor at any time may require the division to file an account with the auditor of state on any particular designated portion of, or the whole of, any trust property received or expended by it.

Unless otherwise provided by the terms of the trust, the trustees shall be the director of welfare, and the advisory council, who shall deposit or invest and reinvest said trust funds in accordance with the law of Ohio relating to testamentary trustees. (*Am. Sub. S. B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-11. **Officers and employes of division and institutions, salaries; selection of superintendents.** The director with the advice of the commissioner, shall, subject to civil service rules and regulations, determine the number of officers and employees to be appointed and fix the salaries and wages to be paid in the division and at the various institutions under the control of the division. Such salaries and wages shall be uniform, as far as possible, for like service in or connected with the various institutions. In the selection of a superintendent for a state or receiving hospital, the director and commissioner shall consult with the advisory council before making any such appointment. (*119 v. 619. Eff. Sept. 4, 1941.*) (*See, also, Sec. 1842 G. C.*)

Sec. 1890-12. **Forms in commitment and release, prescribed by commissioner.** The commissioner shall prescribe the forms of affidavit, application, medical certificate, and order of commitment and release, and all other forms, that may be required by law in the commitment or admission and release of all persons to the institutions under its control, which forms shall be the only ones used for such commitments, admissions, or releases or discharges. (*117 v. 554. Eff. Jan. 1, 1938.*)

Sec. 1890-13. **Annual report by commissioner to director.** The commissioner shall make an annual report to the director containing a report of the purposes and accomplishments of the division including a report of receipts and expenditures in any funds or property administered by it under the provisions of section 10 of this act. This report may also contain information embodying the experience of this and other states and countries relative to the best and most successful method of observation, treatment and care of the mentally ill including preventive methods and treatments. (*117 v. 554. Eff. Jan. 1, 1938.*)

Sec. 1890-14. **State has control and custody.** The state of Ohio shall have the care, custody, control and treatment of all persons mentally ill, and of each person who shall be received into any hospital under the control of this division. Except as provided in this act, no county, city or political subdivision shall establish or maintain any institution, hospital or home for the care, control and treatment of the mentally ill. (*119 v. 618. Eff. Sept. 4, 1941.*)

Sec. 1890-15. **Department has charge and control of institutions.** The department of public welfare shall have charge and control of any and all institutions now in existence or which may hereafter be established and which are maintained in whole or in part by the state of Ohio for the treatment and care of the mentally ill, psychopathic, mentally deficient, and epileptic, including institutions which may be provided and designated for the custody, care and special treatment of criminal insane, psychopathic offenders, and mentally deficient offenders. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-15a. **Custody outside enclosure of institution.** The department of public welfare shall have the power and authority, also, to provide for the custody, supervision, control, treatment and training of feeble-minded, epileptic, mentally ill, mentally deficient persons committed to its custody and care elsewhere than within the enclosure of an institution, if the department of public welfare and the division of mental hygiene shall so determine with respect to any individual or group of individuals; provided that in all such cases the department shall insure adequate and proper overseeing and supervision for the due protection of such persons and of the public.

Sec. 1890-16. **Receiving hospitals, development; purpose.** Under the direction and with the authority of the director, the division of mental hygiene shall develop, extend and complete a statewide system of receiving hospital service, by contracting for the use of services for the care and treatment of patients, or by establishing receiving hospitals or by leasing, or contracting for the use of privately or publicly owned facilities to be designated as receiving hospitals as defined and provided for herein either separate from or in connection with existing or future state hospitals, which receiving hospitals shall be used for the observation, care and treatment of the mentally ill, and especially for those whose condition is incipient, mild, or of possible short duration. Such receiving hospital shall perform any of the work or duties authorized to or required of the division of mental hygiene. If established in connection with a state hospital on the site of the state hospital, they shall be operated under the same pro-

cedure and laws governing receiving hospitals located on sites other than a state hospital. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-17. **Receiving hospitals, location; shall conform to state hospital districts.** At the earliest possible date after this act becomes effective there shall be established receiving hospitals as defined herein in connection with and on the site of each of the existing state hospitals, except the Lima state hospital. The district served by the receiving hospitals provided for herein shall be identical with the districts served by the state hospital in connection with which the receiving hospital is established. The districts shall be changed as additional receiving hospitals are established at places other than on the site of a state hospital. (*119 v. 620. Eff. Sept. 4, 1941.*)

Sec. 1890-18. **State divided into districts; hospitals to which patients shall be committed.** The division shall divide the state into districts, may change the districts from time to time, and shall designate the hospitals to which the mentally ill, feeble-minded and epileptic shall be committed or received. (*119 v. 620. Eff. Sept. 4, 1941.*)

Sec. 1890-19. **Definition of mentally ill. Definition of legal settlement.** "Mental illness," "mentally ill," "mental disease," "mental disorder," shall mean an illness which so lessens the capacity of the person to use self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control. The terms shall be construed to include "lunacy," "unsoundness of mind," "insane" and also cases in which such lessening of capacity for control is caused by such excessive addiction to narcotics, sedatives or stimulants as to make it necessary for him to be under treatment, care, supervision, guidance or control.

The terms "residence" and "legal residence" as used in this act shall have the same meaning and legal purport as the term "legal settlement" as defined in section 3477 of the General Code. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-20. **Inspection, licensing and supervision of public and private institutions.** The division shall have the right to inspect, license and supervise all institutions for the mentally ill, maintained in whole or in part by public funds or by any political subdivision of the state of Ohio. The division shall have the right to inspect, license and supervise all private institutions that may or do receive mentally ill persons. Except as otherwise provided, no hospital, home or institution, privately owned or operated, will be permitted to receive for care or treat-

ment either at public or private expense, any person who is or appears to be mentally ill whether or not so adjudicated unless such private hospital, home or institution shall have received a license from the division of mental hygiene authorizing such private institution to receive for care or treatment persons who are mentally ill.

The division may annually license a private hospital, home or institution, established or used for the care or treatment of persons mentally ill. No such license shall be granted to a hospital, home or institution for the treatment of the mentally ill unless the division is satisfied, after investigation, that such hospital, home or institution used for the treatment of the mentally ill, is managed and operated by persons of good character, and has on its staff one or more duly qualified physicians, responsible for the medical care of the patients confined therein. At least one of such physicians shall have had at least three years practical experience in the treatment of persons mentally ill, and the standing, character and professional knowledge of each shall meet the standards prescribed by the division. No license shall be granted to any private hospital, home or institution established or used for the care of persons mentally ill unless such hospital, home or institution shall have met the standards fixed by the division of mental hygiene. Licenses granted hereunder shall be for one year from date of issue, but may be renewed. The division may fix reasonable fees for said license and for renewals thereof. Such institutions, homes or hospitals, licensed hereunder shall be subject to inspection, and visitation by said division at any time.

It is the intent and purpose of this section to require all private homes, hospitals or institutions attempting to or giving care or treatment to the mentally ill, to have a license therefor from the division of mental hygiene, whether the patient is in such private place at either public or private expense.

Except as otherwise provided in this chapter, neither the commissioner, an employee of the division, the probate judge nor any other public official shall commit to or place any mentally ill person in any private hospital, home or institution for either care or treatment, that is not licensed in accordance with this section.

Any license issued by the division as provided in this section may be revoked at any time by the division for any of the following reasons:

1st. That the licensee is no longer a suitable place for the care or treatment of the mentally ill.

2nd. That the licensee refuses to be subject to general supervision, inspection or visitation by said division at all times.

3rd. That the licensee has failed to continue and maintain the standards required by the division or has failed to furnish humane, kind and adequate treatment and care. Any person, persons, firm, partnership or

corporation operating a private hospital, home or institution for the care or treatment of the mentally ill, which is aggrieved by any action refusing an application for license or renewal thereof, or suspending or revoking a license, or otherwise, may appeal in accordance with the provisions of the administrative procedure act. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-21. Penalty for maintaining institution without license. Whoever keeps or maintains a private institution, hospital or home, for the care or treatment of persons mentally ill, unless the same is licensed by the division, shall be punished by a fine of not more than one thousand dollars or imprisonment not to exceed six months, or both. (*119 v. 622. Eff. Sept. 4, 1941.*)

Sec. 1890-22. Repealed. (119 v. 639. Eff. Sept. 4, 1941.)

Sec. 1890-23. Detention procedure; filing of affidavit. For the detention of a person thought to be mentally ill and for his admission to a receiving hospital or state hospital or for other legal disposition the following proceedings shall be had except as otherwise provided by this act: One of the next of kin, or a resident of the county in which the person alleged to be mentally ill has a legal residence or is temporarily residing or detained, shall file in the probate court of said county an affidavit in the manner and form prescribed by the division of mental hygiene which shall contain the following information:

1. The name and present place of abode of such person, also the place of his legal residence if known, or information that may be necessary to determine his legal residence.

2. That said person is believed to be mentally ill or in need of specialized observation or treatment or both.

3. A statement as to whether or not such person is violent or dangerous or has suicidal or homicidal tendencies.

4. Whether or not by reason of the mental illness of such person his being at large is dangerous to the community.

5. The names and addresses of the competent adult next of kin.

6. Whether or not he had ever been committed to an institution for mental illness or a penal institution, or either, within or without the state of Ohio.

7. The name and address of the patient's last physician and the personal or family physician. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-24. Warrant of detention; temporary custody. When such affidavit is filed the probate judge shall issue a warrant of detention to any police officer, or member or employee of any county, municipal or township board of health, or to any suitable person commanding him to

take such person to the place designated by the probate judge in said warrant of detention. The officer or person authorized to serve said warrant of detention may call upon any person near to aid and assist in the serving of said warrant. Any person interfering with or obstructing the service of said warrant or detention thereunder, shall be fined not more than fifty dollars.

The officer or person serving the warrant of detention shall forthwith make proper return of the service thereof and in no case later than the first law day after its service.

The person so apprehended shall be detained at the place designated in the warrant until the time of hearing, unless the probate judge orders otherwise. The probate judge may make any order for the detention of such person until hearing that he deems advisable, having in mind the welfare of the person and the protection of society.

When a mentally ill person is detained in the county jail either on a warrant or without a warrant, the county commissioners shall provide proper facilities in the jail for the care of such persons as shall meet the approval of the division of mental hygiene so that such persons may be kept completely separate and apart from persons accused of crime. Facilities for such detention or for care before or after commitment by the probate court may be provided by the county commissioners either at or in connection with the county home. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-25. Hearing on affidavit; notice to next of kin or guardian; selection of representative by patient. No hearing shall be had upon the affidavit provided for in section 1890-23 of this chapter, until the probate judge has caused written notice by mail or otherwise as the court may direct, to be given to the following persons:

1. Any one person, whether a relative or not, designated by the person believed to be mentally ill if such person is considered by the court competent to make a selection. If the person is considered by the court incompetent to make a selection, then the notice shall be sent to the person's attorney, if any, or to the next of kin or a friend of the person other than the person who filed the affidavit. If the person selected to represent the patient fails to appear, the court shall appoint a guardian ad litem to act in the patient's behalf.

2. Any person or persons that the probate judge determines should have notice of such hearing.

All persons entitled to notice as herein set out shall be permitted to waive such notice, and their failure to appear shall not invalidate any action taken by the court under section 1890-27 of the General Code. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-26. **Violent and dangerous person, apprehension without warrant; emergency care.** Any member of the family of a person believed to be mentally ill, or any police officer, or member or employee of any county, municipal or township board of health may, without the warrant provided for in section 1890-24 of this chapter detain any person whom he has reasonable cause to believe to be mentally ill, and who is violent or dangerous, or has suicidal or homicidal tendencies, and without unnecessary delay take the person detained to a receiving hospital, if available, and if the patient's condition will permit his care in such a hospital; and if a receiving hospital is not available then to a county, city or village jail. If such person is taken to jail an affidavit must be filed or caused to be filed in the probate court by the apprehending officer or the officer in charge of the jail the next succeeding law day. When a person mentally ill is apprehended without a warrant and placed in jail, he shall forthwith be examined by a physician and shall be furnished medical care and nursing at the expense of the village or city as long as he remains an inmate of such village or city jail and at the expense of the county as long as he is an inmate of the county jail and until the liability of the state of Ohio to maintain and care for such person begins.

A person so detained may be held by the superintendent of a receiving hospital or a sheriff, without a warrant, for a reasonable period of time, not exceeding five days. Such person may be detained in a village or city jail for a period of not to exceed twelve hours within which period of time said person must be transferred to a receiving hospital, if available, and if a receiving hospital is not available, to the county jail. Such person shall be received by the superintendent of the receiving hospital if there are facilities for his accommodation therein, otherwise he must be detained in the county jail or at such other suitable place of detention as may be legally provided by the county commissioners.

All persons acting in good faith either upon actual knowledge or information thought by them to be reliable in executing the affidavit provided for in section 1890-23 of this chapter, or who apprehends and detains or assists in apprehending and detaining any person without a warrant under the provisions of this chapter, shall be free from any and all liability to the person detained or any other person or persons by reason of such arrest, imprisonment or restraint. It being the intention to expedite all matters pertaining to the treatment of persons alleged to be mentally ill and to protect all persons acting in good faith from liability for damages in so doing. (*119 v. 623. Eff. Sept. 4, 1941.*)

Sec. 1890-27. **Examination of witnesses; hearing; commitment or other disposition.** Unless for good cause the hearing is adjourned, the probate judge, on the next law day after the return of the service of

the warrant of detention, shall, without the intervention of a jury, proceed to examine the witnesses in attendance, and further witnesses that he may desire to call. He shall cause an examination of such person to be made by at least one physician and a report of such examination to be made a part of the court record. Upon the hearing of the testimony, which hearing may be had at any place within the county as the probate judge may designate, and after receiving the report of the physician or physicians, if he is satisfied that the person charged is mentally ill and in need of specialized care and treatment, he may by order duly entered proceed as follows:

1. To order that such person be placed in a receiving hospital for observation or treatment or both.

2. To commit such person to the proper state hospital for the mentally ill for treatment.

3. To commit such person to the state department of public welfare and to deliver him to the facility provided by the department for persons described in section 1890-72 of the General Code.

4. To commit such person to the veterans administration or other agency of the United States government, as provided for by section 11037-15 of the General Code, after having received the written consent of such hospital to receive such person.

5. To order that such person be placed in a private hospital, home or institution licensed and approved by the division of mental hygiene at his own or county expense.

6. To remand such person to the custody of a relative, friend, or other suitable person.

7. To commit such person to the county home or other place provided by the county commissioners under authority of law.

8. Discharge him.

The medical witnesses provided by this section and section 1890-28 of the General Code must be registered physicians in Ohio and must have had at least three years' experience in the practice of medicine. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-28. Receiving hospital patients, notice to court; rehearing and disposition. Upon the report of the superintendent of a receiving hospital that in his opinion a patient is mentally ill and in need of hospital care and treatment, or upon the report of any person into whose charge a patient was previously committed, such patient may be called for a rehearing at such place within the county of his residence as the probate judge may designate. All persons notified of the original hearing and such other persons as the probate judge determines, shall be notified in the manner provided for in section 1890-27 of this chapter. At such

hearing witnesses may be called by the person alleged to be mentally ill, or by a person in his behalf. Unless witnesses are called by the person alleged to be mentally ill or by a person in his behalf, the probate judge may proceed to hearing upon the certificate of the superintendent of the receiving hospital or upon the testimony of said superintendent; or upon the testimony of the person into whose charge the patient was previously committed and that of a medical examiner. Following the evidence and the testimony of the witnesses, the probate judge by order duly entered may make any one of the findings enumerated in section 1890-27 of this chapter, except that he may not again be placed in a receiving hospital upon the same affidavit. (*119 v. 625. Eff. Sept. 4, 1941.*)

Sec. 1890-29. **Hearing on affidavit; mental status determined by court irrespective of allegation.** When the proceedings are in the probate court a patient may be determined to be mentally ill in a hearing or rehearing upon an affidavit alleging a person to be feeble-minded; or may be determined to be feeble-minded in a hearing or rehearing upon affidavit alleging a person to be mentally ill; or be determined to be epileptic in a hearing or rehearing upon an affidavit alleging a person to be mentally ill or feeble-minded. When the probate judge has determined the actual condition of the person the further proceedings shall be under the provisions of law applicable to that type of patient. (*119 v. 625. Eff. Sept. 4, 1941.*)

Sec. 1890-30. **Relative may take charge of patient.** The relative of a person charged with mental illness, or found to be mentally ill, in all cases, may, with the approval of the probate court take charge of and keep such person if they desire to do so. In such case the probate judge, before whom the hearing has been held, may deliver such mentally ill person to them. (*117 v. 561. Eff. Jan. 1, 1938.*)

Sec. 1890-31. **Court to determine condition of patient; non-residents.** When it is made to appear to the court of any county by affidavit, that a person within his county is suffering from mental illness, the probate judge may inquire into such allegations and may call witnesses, medical or otherwise, following which he may make any of the orders set out in section 1890-27.

The non-residence of such person either of the county or of the state, shall not limit the jurisdiction of the probate judge to hold the hearing and determine the patient's condition: provided that if the patient is known to have a residence in another county of the state, and his condition permits the court shall order his return to such county for hearing after having verified such residence by contact with the probate court of the county of residence. And, provided further, that no commitment to an institution

shall be made in the case of a non-resident of the county or a non-resident of the state except upon the authorization of the department of public welfare. (*119 v. 626. Eff. Sept. 4, 1941.*)

(*See section 1890-19 for definition of "residence" and "legal residence."*)

Sec. 1890-32. Non-resident cases to be reported to department before disposition. Any actions taken by the probate judge under section 1890-31 in the case of a non-resident of the county or state shall be reported forthwith to the department of public welfare with a case history containing all information that the probate judge could secure pertaining to such person. The department shall have full and complete authority to make final disposition of such person, either by directing his return to the county or state of which he is a resident or otherwise as the department may determine. (*119 v. 626. Eff. Sept. 4, 1941.*)

Sec. 1890-33. Expenses charged and paid by county of legal residence; transcript of proceedings. If the legal residence of such person is in another county of the state of Ohio, the necessary expense of his return thereto shall be a proper charge against the county of residence. If an adjudication and commitment by the county of temporary residence is required, the regular probate court fees and expenses incident to the commitment, under the provisions of sections 1890-31 and 1890-32, and any other expense incurred in his behalf, shall be charged to and paid by the county of his legal residence upon the approval and certificate of the probate judge thereof. A certified transcript of all proceedings had in the committing court shall be sent to the probate court of the county of the residence of such person. Such court shall enter and record said transcript. Such certified transcript shall be prima facie evidence of the residence of such person. When the residence of such person can not be established as represented by the committing court, the matter of residence shall be referred to the department of public welfare for an investigation and determination. (*119 v. 626. Eff. Sept. 4, 1941.*)

Sec. 1890-34. General jurisdiction of court. In a case wherein the jurisdiction of a court has not been specifically given or the procedure provided for, the probate court and the judge thereof shall have full, complete and general jurisdiction to determine the actual mental status of any person alleged to be mentally ill, feeble-minded or epileptic and found within his county, and make disposition of such person in accordance with the procedure prescribed by this chapter. (*119 v. 627. Eff. Sept. 4, 1941.*)

Sec. 1890-35. **State not responsible for hospitalization of non-resident; deportation.** Neither the state of Ohio nor any political subdivision thereof shall be required to provide hospital care or treatment for the mentally ill, the feeble-minded, the insane epileptic, or any person whether an adult or minor whose condition requiring treatment in an institution as defined herein, existed or occurred prior to the person's becoming a legal resident of this state or existed at the time of his entry into the state for the purpose of residence. The provisions of this section shall not apply to a person accused of or convicted of a crime in Ohio and the proceedings relating thereto.

No such person shall be permitted to establish a legal residence in this state for the purpose of gaining admission to any of the facilities referred to in this chapter. To have gained a legal residence within the meaning of this section, the person shall have resided in this state for not less than twelve consecutive months next preceding the date of the filing of the affidavit and during this period shall not have received relief under the laws governing relief to the poor, or aid, relief or custodial care from any private or public charitable institution or organization, or other benevolent association.

Any mentally ill, feeble-minded or epileptic person, confined in any state institution, detention hospital, or temporary facility, or any person coming before the probate court for the purpose designated by this act who is known to have a legal residence in another state may be deported thereto at the expense of the state of Ohio. (*119 v. 627. Eff. Sept. 4, 1941.*)

Sec. 1890-36. **Removal of non-resident patient; inter-state agreements.** The commissioner of the division of mental hygiene may enter into an agreement with the proper authorities or agencies of other states for the transfer of any patient or person referred to in the preceding section to the state of his legal residence. In making such transfers and removals the commissioner, in so far as practicable, shall employ nurses or attendants instead of officers of the law, and shall employ female nurses or attendants to accompany female patients. (*Am. Sub. S.B. 18. Eff Oct. 11, 1945.*)

Sec. 1890-37. **Court papers to be transmitted to superintendent.** The probate judge, upon making an order committing a person to a state hospital or other facility referred to by this chapter, shall forthwith, subject to the restrictions of section 1890-31, transmit to the superintendent of the hospital, copies, under his official seal, of court papers in the case, including the certificate of the medical witnesses and of his findings in the case. If the person committed has been confined in a receiving hospital,

the certificate of the superintendent of the receiving hospital shall also be furnished. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-38. Notice of acceptance of patient, court to issue warrant to convey. When advised that the patient will be received, the probate judge shall forthwith issue his warrant to convey to the sheriff or to any other person designated by the court commanding him forthwith to take charge of and convey such mentally ill person to the hospital. If the probate judge is satisfied that an assistant is necessary, he may appoint one person as such assistant. If the mentally ill person is female, a female assistant must accompany her whether the conveyance is made by the sheriff or some other suitable person. (*117 v. 563. Eff. Jan. 1, 1938.*)

Sec. 1890-39. Form of warrant and receipt prescribed by division. The warrant of the probate judge to convey such patient to a state hospital for the mentally ill and the receipt of the superintendent or a member of the medical staff of such hospital for such patient shall be in the form prescribed by the division of mental hygiene. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-40. Execution and return of warrant; application to report physical condition. On receipt of the warrant to convey, the sheriff or other person to whom directed shall execute and return it to the probate court that issued such warrant, showing how it was executed and the date the patient was delivered to the hospital or place set out in said warrant. The warrant shall contain the receipt of the delivery of the patient signed by the superintendent or a member of the medical staff of such institution or place set out in said warrant. The warrant with the return thereof shall be filed in the probate court with the other papers relating to the case. In making application to the superintendent of a state hospital or a receiving hospital the probate judge shall convey to the superintendent any information he may have with reference to the patient's physical condition. (*119 v. 628. Eff. Sept. 4, 1941.*)

Sec. 1890-41. Record of proceedings; costs and expenses. The probate judge shall make a complete record of all proceedings had under the provisions of this act. The cost and expenses to be paid under the provisions of this act shall be as follows: To the person, and police officers, other than sheriffs or their deputies, for serving the warrant for detention, for executing warrants to convey and warrants to reconvey, the same fees allowed to constables, to be paid upon the approval of the probate judge; to sheriffs or their deputies, the same fees allowed by law for similar services in the court of common pleas; to physicians, not to exceed two, designated by the court when they act as medical witnesses, seven dollars and

fifty cents, to other witnesses the same fees and mileage as for attendance at the court of common pleas, all witness fees to be paid upon the approval of the probate judge, to the person other than the sheriff or his deputies, for taking a mentally ill person to a state hospital or removing one therefrom upon the warrant of the probate judge, and serving warrants, the actual necessary expense incurred, specifically itemized and verified by his oath and approved by the probate judge; to one assistant to convey to the hospital, when authorized by the probate judge, a fee of two dollars a day, provided he is not drawing a salary from the state of Ohio or any political subdivision thereof, and his actual necessary expense incurred, specifically itemized and verified by his oath and approved by the probate judge. (*117 v. 564. Eff. Jan. 1, 1938.*)

Sec. 1890-42. **Fees and expenses paid from county treasury.** The fees and expenses enumerated in the preceding section, together with all costs in the probate court, shall be paid from the treasury of the proper county upon the certificate of the probate judge. (*117 v. 564. Eff. Jan. 1, 1938.*)

Sec. 1890-43. **Papers shall be preserved.** In cases of proceedings held under the provisions of this act, the probate judge shall file and preserve all papers filed with him, and make such entries upon his docket as, together with the papers so filed, will constitute a complete record of each case determined by him. (*117 v. 564. Eff. Jan. 1, 1938.*)

Sec. 1890-44. **Clothing for transportation.** If not otherwise furnished, the probate judge shall see that each patient committed under the provisions of sections 1890-27 and 1890-72 of this chapter is properly attired for transportation, and, in addition, the institution shall be furnished a complete change of clothing for such patient, which shall be paid for on the certificate of the probate judge and the order of the county auditor from the county treasury. Such clothing shall be new or as good as new. The superintendent shall not be bound to receive the patient without such clothing. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-45. Repealed. (120 v. H.B. 383. Eff. Aug. 25, 1943.)

Sec. 1890-46. **Support and maintenance.** The support and maintenance of patients confined in receiving and state hospitals for the mentally ill, state institutions for the mentally deficient, and state institutions for epileptics, including the state hospital for criminal insane and psychopathic and the state institution for mentally deficient offenders, excepting those transferred thereto from correctional, penal and reformatory institu-

tions, and persons under indictment or conviction for crime, shall be collected and paid in accordance with the provisions of sections 1815, 1815-1, 1815-2, 1815-3, 1815-4, 1815-5, 1815-6, 1815-7, 1815-9, and 1815-10 of the General Code. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-47. Report by court to department on financial condition of patient or relatives. The probate judge shall make or cause to be made a reliable report upon the financial condition of each patient and of each of the relatives of said patient who are liable for the support of said patient as set out in section 1815-9 of the General Code. For this purpose the probate judge may appoint a suitable person to investigate the financial condition of the patient and of each of the persons liable by law for the support of such patient and report to the court. The probate judge may subpoena and examine witnesses under oath and shall have access to any and all personal property tax returns that have been filed by any of such persons in any county within the state of Ohio, any provision of the law to the contrary notwithstanding. The testimony and evidence given under the provisions of this section shall not be subject to public hearing or public inspection in the probate court or any other place. The reports provided for herein shall be submitted to the department of public welfare and shall not be subject to public inspection either in the department of public welfare or in the probate court. (*117 v. 565. Eff. Sept. 1, 1938.*)

Sec. 1890-48. Personal property of patient; appointment of special guardian. Upon admission or commitment to a state or receiving hospital, the superintendent thereof shall take possession of all money and other valuables that may be upon the person of the patient and shall within ten days file a list thereof with the probate judge of the county of which the patient is a resident. Provided that when the amount of money is fifty dollars or less it shall be retained and expended by the superintendent of the hospital for the benefit of the patient. Unless a guardian of the estate of said patient has already been appointed, the probate judge may, upon his own motion and without notice, appoint a special guardian of the estate of said patient. Any special guardian, before being appointed, shall file a bond approved by the probate judge, in the same amount as is required by law of guardian. A special guardian as provided for herein, and while acting as such, shall be governed by all of the provisions of law applicable to guardians of the estates of either minors or incompetents. Such special guardian shall be allowed such compensation for his services as the court thinks reasonable, providing he forthwith performs all the duties incumbent upon him as provided by law. (*119 v. 629. Eff. Sept. 4, 1941.*)

Sec. 1890-49. **Superintendent has custody and control of patient.** The superintendent of an institution shall have exclusive custody and control of the person of the patient during the period of time he is detained for observation or treatment or both, whether a guardian of the person of said patient has been appointed or is appointed by any probate court. *117 v. 566. Eff. Jan. 1, 1938.*)

Sec. 1890-50. **Voluntary admission; application.** Any person who is, or appears to be, or believes himself to be mentally ill, may make written application for voluntary admission to a state hospital, or to a receiving hospital when and if such hospital is available. Such application, accompanied by a certificate of a reputable physician, shall be on a form prescribed by the division. Such application may also be made on behalf of a minor by a parent, guardian of the person or the one having the custody of the minor, and on behalf of an adult incompetent by the guardian or the one having custody of the incompetent. Said application shall be filed with the superintendent of the hospital. The superintendent may admit or refuse to admit any voluntary patient. (*119 v. 629. Eff. Sept. 4, 1941.*)

Sec. 1890-51. Repealed. (Am. Sub. S.B. 48. Eff. Oct. 11, 1945.)

Sec. 1890-52. **Voluntary applicant must be resident of district.** An applicant or the person in whose behalf an application is filed under section 1890-50 of this chapter, must be a resident of the district which such hospital has been designated to serve. The number of persons cared for as patients in any hospital under this and other sections relating to voluntary admissions shall be left to the discretion of the commissioner of mental hygiene. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-53. Repealed. (Am. Sub. S.B. 48. Eff. Oct. 11, 1945.)

Sec. 1890-54. **Notice of desire to leave; superintendent may file affidavit for continued care.** No person shall be detained as a voluntary patient for more than ten days after having given written notice of his intention or desire to leave a hospital or institution. If, at any time during observation or treatment, a voluntary patient notifies the superintendent of his desire to leave, and the superintendent is of the opinion that said patient is in need of further treatment, he shall make and file, or cause to be made and filed, in the probate court of the county of the patient's residence, an affidavit in the proper form, for the commitment of such patient for treatment. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-55. **Support of voluntary patient.** The provisions of law applicable to the payment of charges for their support by patients

committed to state or receiving hospitals shall apply to persons received on voluntary application. (*119 v. 630. Eff. Sept. 4, 1941.*)

Sec. 1890-56. **Discharge for care in county home.** The commissioner of mental hygiene or any superintendent may by agreement with the county commissioners, discharge for care at county expense in a county home, any patient of a state or receiving hospital who is quiet, and not dangerous. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sections 1890-57, 1890-58, 1890-59. Repealed (119 v. 630. Eff. Sept. 4, 1941.)

Sec. 1890-60. **Transfers among state hospitals; records of.** The director of public welfare or the commissioner of mental hygiene may transfer to and from any hospital within the division of mental hygiene any inmate thereof who, in his opinion, is a proper subject for admission to the hospital to which he is to be transferred. A report of such transfer shall be entered in the records of the department of public welfare. The commitment papers, together with an abstract of his hospital case record, shall be transmitted with him to the hospital to which he is transferred. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-61. **Person restrained of liberty; investigation of; discharge.** The commissioner shall have power to investigate the question of the mental and physical condition of any person who is an inmate of any institution for the mentally ill under the supervision of the division, or restrained of his liberty by reason of alleged mental illness at any place within the state of Ohio, order and compel the discharge of any such person who shall not be insane and direct what disposition shall be made of him; provided, that no such order shall be made in favor of any person committed and held for trial on a criminal charge, nor in favor of a person held in confinement by an order of a judge or court made in a criminal proceeding; nor in any case unless notice be given to the superintendent or other person having charge of the building in which the alleged mentally ill or insane person is detained and a reasonable opportunity be allowed the person so in charge to justify further detention of the person confined. (*117 v. 569. Eff. Jan. 1, 1938.*)

Sec. 1890-62. **Trial visits; conditions of.** When the superintendent of a state hospital deems it for the best interests of a patient, who is not dangerous and who has no homicidal or suicidal tendencies, he may permit such patient to leave the institution on a trial visit, which shall be for such period of time as the superintendent may determine.

The superintendent upon releasing a patient on trial visit may impose

such requirements and conditions in relation to the patient while absent from the hospital that he deems proper in the interest of the patient and the public welfare. (*119 v. 630. Eff. Sept. 4, 1941.*)

Sec. 1890-63. **Discharge of patients, procedure.** The superintendent of a hospital, with the approval of the director of public welfare or the commissioner of mental hygiene, except as otherwise provided by law, may discharge any patient, not under indictment or conviction for crime, from such hospital or under his custody or control when, in the opinion of the superintendent, such patient is no longer mentally ill, feeble-minded or epileptic, or when such person has recovered to such an extent that he may be discharged from the hospital without danger to others and with benefit to himself, or when such superintendent and commissioner deem such discharge proper. No patient, who in the judgment of the superintendent, has dangerous, homicidal or suicidal tendencies, shall be discharged as long as such tendencies exist. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-63a. **Restoration to competency.** After a person has been adjudicated to be mentally ill, feeble-minded or epileptic, such person may at any time thereafter, file an application in the Probate Court wherein the adjudication was made to determine whether such person is then competent: Provided, however, any person committed to a state institution under the provisions of this act shall not be permitted to file such application until such person has received a certificate of discharge from such institution.

Upon filing of such application, notice of the purpose, time and place of the hearing shall be given to the person upon whose affidavit such adjudication was made, to the guardian, if any, and to the spouse, if any, at his or her residence, if such address is known.

Upon hearing, if it is proven that said applicant is competent, the Court shall so find and enter such finding on its journal.

The Court shall fix the sum of five dollars as costs for such proceedings. (*Am. S.B. 212. Eff. Oct. 8, 1945.*)

Sec. 1890-63b. **Application by patient for release.** Any person, not under indictment or conviction for crime, committed under the provisions of this act, may, after the expiration of one year from the date of his commitment, make written application to the court by which he was committed, for his release. Such application may be made personally, by counsel, by guardian or by next friend but must be supported by a certificate of a reputable physician. The court shall grant a hearing upon such application at which hearing it shall give consideration to reports and

recommendations of the department of public welfare and to such evidence as the applicant may present. No subsequent application to said court shall be filed on behalf of any person whose application is denied, except by leave of court, within one year after the date of the last preceding hearing. If upon any hearing provided by this section, the court finds that such person is not then mentally ill, insane, mentally deficient, psychopathic or epileptic, as the case may be, the court shall order the Department of Public Welfare to discharge such person. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-64. Traveling and escort expense of patient granted trial visit or discharge. If neither a discharged patient or a patient granted trial visit, nor the persons requesting his trial visit or discharge, are financially able to bear the expense of his removal, the superintendent may then provide actual traveling and escort expenses, if needed, to the township of the county in Ohio of which he was resident at the time of commitment, which sum in no case shall exceed twenty dollars, and charge it to the current expense fund of the institution.

The superintendent shall provide sufficient and proper clothing for traveling if neither the patient nor the persons requesting his trial visit or discharge are financially able to provide such clothing. (*117 v. 569. Eff. Jan. 1, 1938.*)

Sec. 1890-65. Escaped patient, or patient on trial visit; apprehension and detention. An escaped patient or a patient on a trial visit may be apprehended and detained at any time with or without a warrant, by any police officer or the person in whose custody he was released, on the verbal or written order of either the department of public welfare, the superintendent of the hospital from which he escaped or was released on trial visit, or the probate judge of either the county from which he was committed or in which the patient is apprehended or detained. Such officer or person who apprehends or detains a patient under this section shall immediately report such fact to the probate judge of the county.

If the person or officer apprehends or detains such patient without the order of a probate judge, he shall immediately report such fact to the probate judge of the county in which the patient is apprehended or detained, whereupon the probate judge of such county shall issue his warrant to reconvey such patient as is provided in accordance with the provisions of section 66* of this act. When such patient is apprehended without a warrant, the officer or person apprehending such patient shall be allowed the same fees as are allowed by law to constables for similar service. Such fees shall be paid from the treasury of the county in which the patient has

* Section 1890-66.

a legal residence, upon the certificate of the probate judge. (*119 v. 631. Eff. Sept. 4, 1941.*)

Sec. 1890-66. **Expense of return from trial visit; warrant to re-convey. Apprehension of escape; expense of return.** The expense of the return of a patient on trial visit from a state hospital, if it can not be paid by the responsible relatives, shall be borne by the county of the patient's legal residence; and in case of the feeble-minded, by the county of commitment.

The superintendent shall take all proper measures for the apprehension of an escaped patient. The expense of the return of an escaped patient shall be borne by the state.

If a warrant to return to the hospital either a patient on trial visit or an escaped patient is required, it may be issued by any probate court upon the request of the superintendent of the hospital or the department of public welfare. (*119 v. 631. Eff. Sept. 1, 1941.*)

Sec. 1890-67. **Report of death, escape, discharge and trial visit to department and court. Notification of death to nearest relatives.** The superintendent shall immediately report the removal, death, escape, discharge, or trial visit of any patient, or return of an escaped or visiting patient to the department of public welfare and to the probate judge of the county from which said patient was committed and the probate judge of the county of the residence of such patient. In case of death, he shall also notify one or more of the nearest relatives of the deceased patient, if known to him, by letter, telegram, or telephone as to him seems best. If the place of residence of such relative is unknown to the superintendent, immediately upon receiving notification the probate judge shall in the speediest manner possible notify such relatives, if known to him.

The superintendent shall upon the request of the probate judge of the county from which such patient was committed or the probate judge of the county of the residence of such patient make a report to such judge of the condition of any patient under the care, treatment, custody or control of such superintendent. (*119 v. 632. Eff. Sept. 4, 1941.*)

Sec. 1890-68. **Patient incompetent to execute contracts; excepting sane epileptic. Discharge shall not vacate guardianship.** Excepting a sane epileptic, or a patient upon voluntary admission, no patient in a hospital operated by the department of public welfare, division of mental hygiene, or a patient on trial visit therefrom, shall be competent to enter into any agreement or execute a contract, deed or other instrument unless it has been approved and allowed by the court committing him by an order

entered on the journal of said court. A certified copy of such order of the court shall be attached to such contract, deed or instrument.

The discharge of a patient shall not operate as a discharge of a legally appointed guardian of the person or estate of such person. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-69. **Special institutions to be provided for dangerous and criminal insane, or psychopathic.** The department of public welfare shall provide and designate a state hospital for the custody, care, and special treatment of persons of the following respective classes:

1. Dangerous persons in other state hospitals, and in institutions for the mentally deficient and the epileptic who are found to be insane or psychopathic.

2. Persons adjudged insane by a probate court under the provisions of section 1890-72 of the General Code.

3. Inmates of penal, reformatory or correctional institutions of the state of Ohio who are found by the department to be insane or psychopathic.

4. Persons charged with a felony, whose cases are pending in the court of common pleas, either before, during or after trial but before sentence, and found to be insane.

5. Insane or psychopathic persons committed by court order to the department under the provisions of sections 13451-20 and 1890-72 of the General Code.

6. Such other insane or psychopathic persons in the custody of the department of public welfare as may be determined by the department. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-69a. **Institutions to be provided for dangerous and criminal mentally deficient persons.** The department of public welfare, when facilities shall have been established, shall designate an institution for the custody, care, special training and rehabilitation of persons of the following classes:

1. Mentally deficient offenders committed to the department under the provisions of sections 13451-20 and 1890-72 of the General Code.

2. Inmates of penal, reformatory, or correctional institutions of the state of Ohio, who are found to be mentally deficient but not insane or psychopathic.

3. Dangerous persons in state hospitals and in institutions for the epileptic who are found to be mentally deficient but not insane or psychopathic.

4. Such other mentally deficient persons in the custody of the department of public welfare as may be determined by the department.

The institution herein provided for, when created, may be referred to as the state institution for mentally deficient offenders. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-70. **Transfers of dangerous patients from state hospitals, institutions for mentally deficient and epileptics to appropriate institutions.** The superintendent of a state hospital for the mentally ill, of an institution for the mentally deficient or of an institution for epileptics may make application to the department of public welfare for an order to transfer therefrom any patient thereof who exhibits dangerous or homicidal tendencies, rendering his presence a source of danger to others. The director or commissioner, when satisfied that such action is advisable, may order the transfer of such patient to an appropriate institution. The expense of transferring such patient shall be paid by the hospital requesting such transfer. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-71. **Patients transferred to Lima not entitled to trial visit or discharge; return to hospital of original commitment.** Patients so transferred shall not be entitled to trial visit nor discharge from Lima. When in the judgment of the superintendent of the Lima state hospital and the commissioner of mental diseases, a patient transferred thereto from another state hospital improves to the extent that he is no longer considered dangerous, he shall upon the recommendation of the superintendent and the order of the director of public welfare or the commissioner of mental diseases be returned to the hospital to which he was originally committed, and the expense of such return shall be borne by such hospital. (*119 v. 632. Eff. Sept. 4, 1941.*)

Sec. 1890-72. **Commitment of person theretofore convicted of felony to special institution.** When in an inquest of mental illness, a judge of the probate court finds a person theretofore convicted of felony, to be mentally ill or mentally deficient, or psychopathic or insane, the court may direct the commitment of such person to the hospital designated by the state department of public welfare in whose custody he shall remain until he is recovered or his condition has improved to such an extent that his discharge will not be detrimental to the public welfare or injurious to him. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-73. **Prisoners, transfers to appropriate institution; examination and procedure.** When a person confined in a penal, reformatory, or correctional institution of this state appears to be insane, psychopathic or mentally deficient, the managing officer of the institution shall notify the department of public welfare, which shall thereupon cause such person to be examined as to his mental condition. If upon examina-

tion, the person is believed to require hospital or other special care, he shall, upon the order of the director of public welfare, be transferred to an appropriate institution. The costs incurred in transferring the prisoner to such institution shall be borne by the institution from which transfer is made. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-74. **Disposition of prisoner so transferred if not recovered upon expiration of sentence.** An insane, psychopathic, or mentally deficient person transferred from a penal, reformatory, or correctional institution to the state hospital for criminal insane and psychopathic or the state institution for mentally deficient offenders shall be detained at such hospital or institution for the maximum term of sentence or commitment applicable to such person, unless sooner determined to be no longer in need of such detention. When the term of sentence or commitment of such person, if not recovered, is about to expire, then within the five days next preceding the expiration of such term or commitment, he shall be brought before the probate court of the county in which the institution is situated, to be dealt with in like manner as provided in sections 1890-76, 1890-77, and 1890-78 of the General Code. (*Am. Sub. S. B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-75. **Disposition of prisoner so transferred upon recovery when sentence not expired.** When the maximum term of sentence or commitment of a person confined in the state hospital for criminal insane and psychopathic or the state institution for mentally deficient offenders has not expired, and he has recovered or improved to such an extent that he is no longer in need of detention at such hospital or institution, the superintendent thereof shall notify the department of public welfare. If the director of public welfare is satisfied that such is the case, the person shall be transferred or returned to the penal, reformatory, or correctional institution from which he came. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-76. **Application to court for hearing upon expiration of sentence.** If the insanity of an inmate, serving sentence, in the hospital, continues upon the expiration of his sentence, within five days before the expiration of such sentence the superintendent shall make application to the probate judge of the county in which the institution is situated for an order to retain such person in the hospital until he is restored to reason and shall mail a written notice that he made such application to one or more friends or relatives of the inmate, if their address is known. (*119 v. 633. Eff. Sept. 4, 1941.*)

Sec. 1890-77. **Court hearing; retention in hospital until recovered.** Upon receipt of such application, the probate judge shall notify such alleged insane person, and shall call two physicians not related by blood or marriage to such person or to the person applying for such certificate and not officially connected with the hospital and who have been in actual practice of medicine for at least three years, and the judge may also in his discretion call other creditable witnesses. If the judge certifies that satisfactory proof of insanity of the person examined has been adduced, he shall direct his retention in such hospital until he has recovered or his condition has improved to such an extent that his discharge will not be detrimental to the public welfare or injurious to him. The form of commitment shall be substantially that required for the commitment of inmates to other state hospitals. (*119 v. 633. Eff. Sept. 4, 1941.*)

Sec. 1890-78. **Attendance of witnesses in court; report to department of result of proceedings; payment of expense by department.** The probate judge in such examination may compel the attendance of witnesses, file certificates of physicians taken under oath and other papers and enter the proper order in his journal. He shall report the result of the proceedings to the department of public welfare. Payment of the expenses thereof shall be made from funds appropriated by the department. (*119 v. 634. Eff. Sept. 4, 1941.*)

Sec. 1890-79. **Trial visits and discharges of persons not under sentence or conviction for crime. Convicted but not sentenced.** Unless otherwise provided by law, the superintendent of the state hospital for criminal insane and psychopathic or the superintendent of the state institution for mentally deficient offenders, with the approval of the director of public welfare or the commissioner of mental hygiene, may place on trial visit or, upon the recommendation of the superintendent and approval of the commissioner, may discharge an inmate not under sentence or conviction for crime, who, in his judgment, is recovered, or who has not recovered but whose condition has improved to such extent that his discharge will not be detrimental to the public welfare or injurious to him.

In the event that an inmate who has been convicted of but not sentenced for crime has recovered or who has not recovered but whose condition has improved to such extent that his discharge will not be detrimental to the public welfare or injurious to him, such superintendent, upon approval by the director of public welfare and after written approval by the commissioner of mental hygiene, shall return such person for appropriate action to the court in which such person was convicted. In the event an inmate was under indictment or conviction at the time of his commitment, the superintendent shall give the prosecutor at least thirty days'

written notice of the intention to return him. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-80. **Escapes of criminal insane, psychopathic and mentally deficient offenders; procedure for apprehension; time absent not to be computed as part of term of imprisonment.** In case an inmate escapes from the state hospital for criminal insane and psychopathic or from the state institution for mentally deficient offenders, the superintendent shall take all proper measures for his apprehension. If at the time of his escape an inmate is a convict and is retaken, the time between such escape and recapture shall not be computed as a part of the term of imprisonment. In such cases the procedure for the recapture and return of such escaped convict shall be the same as that provided for the apprehension, detention and return of escapees from penal and reformatory institutions. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-81. **Clothing of convicts and persons held after expiration of sentence.** The clothing of convicts transferred to a state hospital for criminal insane and psychopathic or a state institution for mentally deficient offenders from a state penal, reformatory, or correctional institution or committed pursuant to the provisions of section 13451-20 of the General Code, and of all those held at the hospital or institution after the expiration of sentence, shall be furnished by the hospital or institution. In all other cases such clothing shall be furnished in the manner provided for inmates in other state hospitals. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-82. **Service of citations on inmates; return of.** A citation, order or process required by law to be served on an inmate of a state hospital for the criminal insane and psychopathic or a state institution for mentally deficient offenders shall be served only by the respective superintendent in charge, who shall make return thereof to the court from which it issued. Such service and return shall have the same force and effect as if made by the sheriff of the county. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-83. **Epileptics, custody of.** Except as otherwise provided, the state of Ohio shall have the care, custody, control and treatment of persons adjudged to be epileptic and of each epileptic person who shall be received into any institution for the epileptic under the control of the division of mental hygiene. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-84. **"Epileptic" defined.** The term "epileptic" means the condition of a person found within the state of Ohio who is or appears

to be afflicted with epilepsy, and includes the sane epileptic as well as those whose epileptic condition is accompanied by insanity or mental illness as defined in this act, regardless of whether the epileptic condition preceded or followed the insanity or mental illness. (*117 v. 574. Eff. Jan. 1, 1938.*)

Sec. 1890-85. **Eligibility for admission to hospital for epileptics.** Any person found in Ohio who has been determined to be an epileptic and who has a legal settlement in the state shall be eligible for admission to the state hospital for epileptics. (*119 v. 634. Eff. Sept. 4, 1941.*)

Sec. 1890-86. **Apprehension, commitment, detention and treatment of epileptics, provision for.** Except as and unless otherwise provided, the authority to apprehend, detain, arrest, hear, commit and receive for treatment a person alleged to be or determined to be epileptic, and any and all proceedings thereunder, including apprehension, detention, arrest, filing of affidavit, issuing and service of warrant to detain, arrest, convey and reconvey, commitment, transfer, hearing and rehearing, witnesses and appearances therefor, discharge, release on trial visit and return therefrom, authority and powers and duties of the superintendent as herein enumerated, right and control of custody of person and property, authority and duties of the department of public welfare and the director thereof, the division of mental hygiene, commissioner and any other employee thereof in respect to the institutions for the epileptic and patients therein, traveling expenses, liability for support or clothing, legal status, powers and duties of probate judge, financial report, fees, court costs and expenses, shall be the same as is provided for the mentally ill and insane in so far as may be applicable to the epileptic and institutions for the epileptic. Provided that a person who is or appears to be or believes himself to be epileptic may of his own volition make a written application to the probate court for admission to a hospital for epileptics, and upon such application the court may proceed to hear and commit such person in accordance with the provisions of this section. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-87. **Affidavit; contents, filing.** The affidavit provided for herein shall contain the allegation that the person is epileptic and in need of specialized care and treatment together with such other facts as are required in an affidavit alleging mental illness. In a hearing or rehearing upon an affidavit alleging a person to be epileptic, and the court finds that such person is an epileptic, it shall also find whether such person is sane, insane or feeble-minded. (*117 v. 575. Eff. Jan. 1, 1938.*)

Sec. 1890-88. **Commitment of epileptics.** The probate judge may commit, as provided herein, an epileptic person whose condition requires for such person's own protection or the protection of society, care,

control or treatment, provided if the affidavit is filed by an epileptic person on his own behalf such commitment may be made when the epileptic condition is not accompanied by insanity or mental illness or other condition. (*117 v. 575. Eff. Jan. 1, 1938.*)

Sec. 1890-89. **Preference and priority in admission.** In the reception of epileptic persons into institutions for epileptics preference and priority, so far as practicable shall be given to epileptic persons whose remaining at large would be dangerous to society. (*117 v. 575. Eff. Jan. 1, 1938.*)

Sec. 1890-90. **Voluntary application of epileptic for observation or treatment.** Any person who is or believes himself to be epileptic may make a written application to the respective superintendent for admission to the proper institution for epileptics for a limited period of observation or treatment. Such application, accompanied by a certificate of a reputable physician, shall be on a form prescribed by the division and filed with the superintendent of the institution. The application shall be made on behalf of a minor by a parent, guardian, or one having custody of such minor. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1915.*)

Sec. 1890-91. *Repealed.* (*Am. Sub. S.B. 48. Eff. Oct. 11, 1915.*)

Sec. 1890-92. **Support of voluntary patients.** The provisions of law applicable to the payment of charges for support of committed patients shall apply to persons received for observation. (*117 v. 575. Eff. Jan. 1, 1938.*)

Sec. 1890-93. **Civil rights; voting privileges of epileptics.** For the purpose of voting, taxation and all other purposes, persons admitted to an institution for the care and treatment of epileptics shall be deemed residents of the county from which they are sent until they are finally discharged. (*117 v. 575. Eff. Jan. 1, 1938.*)

Sec. 1890-94. **Epileptics not eligible to admission to receiving hospitals.** No superintendent of a receiving hospital may receive or retain for observation or treatment, and no court or judge thereof may commit to a receiving hospital for observation or treatment a person believed to be or determined to be epileptic. All commitments of epileptics, whether sane, insane or feeble-minded, shall be made to the proper institution for the epileptic. (*119 v. 634. Eff. Sept. 4, 1911.*)

Sec. 1890-95. **Procedure when hospital for epileptics unable to receive patients; probate court may order other disposition.** If by reason of inability of the institutions for the epileptic to receive additional

patients, and the department of public welfare or the division of mental hygiene is unable to provide for the custody and care of any epileptic person, said superintendent of the hospital shall forthwith notify the judge of the probate court in which the proceedings for the commitment of such epileptic person are pending, of his inability to receive such epileptic person. If such epileptic person has been determined to be insane, the probate judge shall thereupon take such action and make such order as he may deem necessary and advisable to provide for the detention, supervision, care and maintenance of such insane epileptic person, at the expense of the county, until such time as he may be received in an institution for epileptics. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-96. **Feeble-minded; custody and control.** Except as otherwise provided, the state of Ohio shall have the care, custody, control and treatment of persons adjudged to be feeble-minded and admitted to any institution for the feeble-minded under the control of the division of mental hygiene and department of public welfare. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-97. **Definition of "mentally deficient" and "feeble-minded".** The term "mentally deficient" or "feeble-minded", as used in this act, refers to any person whose intellectual development has been retarded from birth or from an early age and whose intellectual and social capacity is below normal for his chronological age to such an extent that he lacks sufficient control, judgment and discretion to manage himself and his affairs, and who by reason of such deficiency, for his own welfare or the welfare of others of the community, requires supervision, guidance, care or control. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-98. **Apprehension, commitment, detention and treatment of feeble-minded, provision for.** Except as and unless otherwise provided, the authority to apprehend, detain, arrest, hear, commit and receive for treatment, a person alleged to be or determined to be feeble-minded, and any and all proceedings thereunder, including apprehension, detention, arrest, filing of affidavit, issuing and service of warrant to detain, arrest, convey and reconvey, commitment, transfer, hearing and rehearing, witnesses and appearances therefor, discharge, release on trial visit and return therefrom, authority and powers and duties of the superintendent as therein enumerated, right and control of custody of person and property, authority and duties of the department of public welfare and the director thereof, the division of mental hygiene, commissioner and any other employee thereof in respect to the director of public welfare and the institution for the feeble-minded and patients therein, traveling

expenses, legal status, powers and duties of probate judge, financial report, fees, court costs and expenses, residence qualifications and provisions therefor, shall be the same as is provided for the mentally ill and insane in so far as may be applicable to the feeble-minded and institutions for the feeble-minded. The affidavit provided for herein shall contain the allegation that the person is feeble-minded and in need of specialized care and treatment together with such other facts as are required in an affidavit alleging mental illness. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1915.*)

Sec. 1890-99. **Purpose of institutions for feeble-minded.** The object of the institutions for the feeble-minded shall be to receive, detain, care for and maintain feeble-minded persons committed to the custody and care of the department of public welfare and to train and educate such of them received as are capable of being trained and educated, so as to render them more comfortable, happy and less burdensome to society. The inmates of the institutions shall be furnished such agricultural and mechanical education as they are capable of receiving and as the facilities furnished by the state will allow. Such other training may be added as the department of public welfare and the superintendent deem necessary and useful for the welfare of the inmates, and as tending to their proper employment, or as to contribute to their development, discipline and support, from time to time. (*117 v. 577. Eff. Jan. 1, 1938.*)

Sec. 1890-100. Repealed. (Am. Sub. S.B. 48. Eff. Oct. 11, 1915.)

Sec. 1890-101. **Private employment for feeble-minded.** The superintendent of an institution for the feeble-minded, with the approval of the commissioner, may also place in private employment, under rules, regulations and conditions as may be prescribed by the division of mental hygiene, and for such wages as may be agreed upon with the employer, any inmate or feeble-minded person under the control of the division who in the discretion of the superintendent, and the commissioner may with benefit to the patient and without injury to the public be placed in such private employment. The earnings of such person shall be his private property. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1915.*)

Sec. 1890-102. **Types of feeble-minded subject to admission.** Feeble-minded persons of any age, whether public charges or not, may be admitted to the institutions for the feeble-minded, provided such persons are, in the judgment of the division of mental hygiene, proper subjects for care, treatment and discipline. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1915.*)

Sec. 1890-103. Repealed. (119 v. 636. Eff. Sept. 4, 1941.)

Sec. 1890-104. **Feeble-minded not eligible for admission to receiving hospital.** No superintendent of a receiving hospital may receive or retain for observation or treatment, and no court or judge thereof may commit to a receiving hospital for observation or treatment a person believed to be or determined to be feeble-minded. All commitments of the feeble-minded shall be made to the proper institution for the feeble-minded. (*119 v. 636. Eff. Sept. 4, 1941.*)

Sec. 1890-105. **Procedure when institution for feeble-minded is unable to receive patients; probate court may order other disposition.** If by reason of inability of the institutions for the feeble-minded to receive additional inmates and the department of public welfare or the division of mental hygiene is unable to provide for the custody and care of any feeble-minded person, the superintendent of the institution to which application is made shall forthwith notify the judge of the probate court in which the proceedings for the commitment of such feeble-minded person are pending, of his inability to receive such feeble-minded person. The probate judge shall thereupon take such action and make such order as he may deem necessary and advisable to provide for the detention, supervision, care and maintenance of said feeble-minded person, at the expense of the county, until such time as he may be received in an institution for the feeble-minded. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-106. **Attorney general shall provide counsel in suits against institution.** The attorney general of Ohio shall attend to all suits instituted on behalf of or against any institution as defined herein and the superintendent thereof, except such institutions as are privately owned or operated under license from the division. If a writ of habeas corpus is applied for the clerk of the court in which the writ is applied for shall give notice thereof and of the time and place of hearing to the attorney general. (*117 v. 579. Eff. Jan. 1, 1938.*)

Sec. 1890-107. **Detention hospitals; county commissioners on application of probate judge may provide. Department of welfare may lease or contract for facilities; to be operated as adjunct to state hospitals.** Until the time when the state has provided sufficient institutions and facilities as provided and authorized in this chapter for the care and treatment of the mentally ill, the county commissioner of any county of the state upon the request of the probate judge may provide and establish facilities for the maintenance, care or treatment of the mentally ill persons residing in such county. For the purpose of providing such facilities, the county commissioners may contract with the trustees of an established general hospital, an established sanitarium for the men-

tally ill, or with the authorities having charge and control of a hospital owned or operated by a municipality. Such facilities shall consist of a hospital or ward or other suitable place available for this purpose. Such facilities or place shall be designated by the term "detention hospitals."

Provided, further, that the state department of public welfare may provide facilities for the maintenance, care or treatment of mentally ill persons residing in such county through the lease or rental of suitable property or through contract with the trustees or managers of an established general or private hospital, or with the authorities having charge and control of a hospital owned or operated by a municipality. Such facility so acquired shall be operated by the state as an adjunct to the state hospital of the district in which such facility is located. Admissions there-to shall be upon transfer from such state hospital upon the order of the superintendent of such hospital. (*119 v. 637. Eff. Sept. 4, 1941.*)

Sec. 1890-108. Admissions to detention hospital, division may order; discharge of patients. The division of mental hygiene, department of public welfare, may order the admission to a detention hospital of any persons who have been committed under the provisions of this chapter to a state hospital for the mentally ill but who have been denied admission to a state hospital because of lack of room. A person so committed shall be detained in the detention hospital until the superintendent thereof or the person in charge of such detention hospital and the division of mental hygiene determine that the person so committed shall be discharged, or may be transferred to a state hospital or other facility provided for herein. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-109. Payment of expense for care and maintenance of detention hospital patients; state not responsible for non-residents. In all cases all patients now confined in detention hospitals as mentally ill under adjudication and commitment to a state hospital by the probate court or who shall hereafter be so adjudicated and committed, and whose admission to the state hospital is denied by reason of lack of room, the cost of maintenance and care shall be borne jointly by the state and the county from which such mentally ill person or persons are committed under the provisions of existing laws governing the support of patients confined in state hospitals, as specified by existing sections 1815-1, 1815-3, 1815-4, 1815-5, 1815-6, 1815-7, 1815-9, 1815-10 and 1816 of the General Code, the state's financial obligation to begin as of the date the application for admission to a state hospital is refused. The rate to be paid to detention hospitals for the maintenance and care of the mentally ill shall be fixed by the state department of public welfare in an amount not to exceed two dollars and fifty cents (\$2.50) per day for each person.

Payment at the full rate specified in this act shall be made in the first instance by the state from such funds as may from time to time be provided in any act appropriating state funds therefor. The county from which the mentally ill person or persons are committed shall have authority to expend funds to reimburse the state for its share of the obligation specified by this act. The treasurer of each county shall pay to the treasurer of state, upon the warrant of the county auditor, the amount charged against such county for the preceding month for the maintenance and care of all such persons so committed and confined not later than fifteen (15) days after the presentation of the monthly statement by the department of public welfare of the state of Ohio.

The patient or the estate of the patient and those persons named in section 1815-9 of the General Code shall be liable for such support and maintenance.

Collections from responsible relatives for the support of patients confined in detention hospitals under the provisions of this section shall be the legal responsibility of the state department of public welfare.

The state shall not be held responsible for the expense of care and maintenance of any person confined in any detention hospital who does not have a legal settlement in the state of Ohio. (*119 v. 637. Eff. Sept. 4, 1941.*)

Sec. 1890-110. Standards of operation of detention hospitals to be prescribed by division; licensing of; discontinuance; reports and records. Any and all detention hospitals established and operated under the provisions of sections 1890-107, 1890-108, and 1890-109 shall maintain such standards as to numbers and qualifications of employees, equipment, food and nursing care as may be prescribed by the division of mental hygiene. Such detention hospitals shall at all times be open and subject to inspection by the director of public welfare and the division of mental hygiene through its authorized representatives and such division shall at all times have authority and jurisdiction to require that prescribed standards be maintained. As a requirement for operation, each detention hospital shall have received a license from the division of mental hygiene; and the director or the division of mental hygiene shall have the authority at his or its discretion to discontinue the use of such detention hospital for state cases and to withdraw any license granted. The division of mental hygiene shall also have authority at any time to remove a patient to another institution; to order his discharge, trial visit, or other disposition as in the judgment of such division appears to be for the best interest of the patient and the state. The management of each such detention hospital shall keep such records and file such reports as may be prescribed by the division of mental hygiene. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1890-111. Repealed. (119 v. 639. Eff. Sept. 4, 1941.)

DEPARTMENT EMPLOYEES. APPOINTMENT BY DIRECTOR
INSTITUTIONS CONTROLLED BY DEPARTMENT
APPOINTMENT OF MANAGING OFFICERS AND EMPLOYEES
OF INSTITUTIONS
TRANSFERS AMONG INSTITUTIONS

Sec. 1835. **Department of public welfare, director shall appoint employes and fix compensation. State institutions; director shall maintain and operate; shall designate by appropriate names.** The director of public welfare shall appoint such employees as may be deemed necessary for the efficient conduct of the department, prescribe their titles and duties and fix their compensation, except as otherwise provided by law. The department of public welfare shall have full power to maintain, operate, manage and govern all state institutions for the care, treatment and training of the mentally ill, psychopathic, mentally deficient and epileptic; for the custody, control, training and rehabilitation of persons convicted of crime and sentenced to penal or reformatory institutions; for the custody, control, training and rehabilitation of minors committed by juvenile courts; for the treatment of mentally ill, mentally deficient, psychopathic and epileptic persons suffering from tuberculosis; and the Madison Home. The department may designate such institutions, present and future, by appropriate respective names, regardless of present statutory designation. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

See sections 154-60f and 1842 G. C.

Sec. 1841-2a. **Transfers among institutions; general.** All persons sentenced or committed to any institution under the control and management of the department of public welfare shall be considered as committed to the control, care and custody of such department. Any person sentenced or committed to one of such institutions may, by order of the department duly recorded, and subject to other provisions of law, be transferred to any other institution; and provided that, except as otherwise provided by law, no person shall be transferred from a benevolent to a penal institution. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

(Various sections govern transfers in specific cases.)

Sec. 1842. **State institutions, managing officer appointed by director. Managing officer has executive charge in appointment of employes; director to determine number and fix salaries.** Subject to

the provisions of law and the rules and regulations of the department of public welfare, each of the institutions under the jurisdiction of the department shall be under the control and management of a managing officer to be known as a superintendent or by other appropriate title. Such managing officer shall be appointed by the director of the department of public welfare, after consultation with the head of the respective division, and shall be in the classified civil service.

The managing officer, under the director of public welfare, shall have entire executive charge of the institution for which he is appointed, except as otherwise may be provided by law. Subject to civil service rules and regulations he shall select and appoint the necessary employees, and he or the director of the department of public welfare may remove such employees for cause. A report of all appointments, resignations and discharges shall be filed with the department at the close of each month.

The director of public welfare, after conference with the managing officer of each institution and the chief of the division within the department in which such institution is located, shall determine the number of employees to be appointed, and fix their respective salaries and wages, which shall be uniform, as far as possible, for like service. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

(See Sec. 1835 for institutions under control of department.)

Sec. 2052. **Ohio state sanatorium to be used for mentally ill, mentally deficient, psychopathic, and epileptic tubercular patients, upon transfer.** The lands, buildings and appurtenances known as the Ohio state sanatorium located at Mt. Vernon, Ohio, shall be maintained by the state department of public welfare for the care and treatment of mentally ill, mentally deficient, psychopathic and epileptic patients suffering from tuberculosis. Admissions to the sanatorium shall be by transfer from state hospitals for the mentally ill, mentally deficient and epileptic upon the order of the state department of public welfare. (*S. B. 137. Eff. Sept 28, 1945.*)

LAWS RELATING TO THE MAINTENANCE, CLOTHING, TRANSPORTATION AND
BURIAL OF INMATES OF STATE INSTITUTIONS

Sec. 1815. **Inmates supported by state. Traveling and incidental expenses by county. Expense of clothing by relatives.** All persons now inmates of, or hereafter admitted into, a benevolent institution, except as otherwise provided in this chapter, and except as otherwise provided in chapters relating to particular institutions, shall be maintained at the expense of the state. Their traveling and incidental expenses in conveying them to the institution shall be paid by the county of commitment. Upon admission, they shall be neatly and comfortably clothed. Thereafter, the expense of necessary clothing shall be borne by the responsible relatives or guardian if they are financially able. If not so furnished, the state shall bear the expense. Except as may be provided otherwise in laws governing particular institutions, any required traveling expense after admission to the institution shall be borne by the state if the responsible relatives or guardian are unable to do so. (*120 v. H. 383. Eff. Aug. 5, 1943.*)

Sec. 1815-1. **Judge shall certify name of guardian or responsible relatives.** When any person is committed to a state hospital for the mentally ill, to the Ohio hospital for epileptics, or to an institution for the feeble-minded, the judge making such commitment shall at the same time certify to the superintendent of such institution, and the superintendent shall thereupon enter upon his records the name and address of the guardian, if any appointed, and of the relative or relatives liable for such person's support under section 1815-9. (*120 v. H. 383. Eff. Aug. 5, 1943.*)

Sec. 1815-2. **Rate of support.** The rate for the support of inmates of such institutions shall be the average yearly per capita cost of the care and treatment of such inmates, such cost to be computed on the general average per capita expense for such services for the calendar year preceding the period of state care, for (a) receiving hospitals for the mentally ill, (b) all state hospitals for the mentally ill, (c) all state institutions for the feeble-minded, (d) state hospital for epileptics, and (e) state institute for epileptics. Provided however, the maximum rate shall not exceed five dollars and fifty cents per week. Less amounts may be accepted by the department of public welfare when conditions warrant such action, or when offered by persons not liable. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1815-3. **Investigation of financial status.** The department of public welfare, by an authorized agent, shall investigate the financial condition of the inmates of state benevolent institutions under its control and of the relatives liable for the support of such inmates, in order to determine the ability of any inmate or such relatives to make payment in whole or in part for the support of the said inmate and to provide suitable clothing as required by the superintendent of the institution; provided, that in all cases due regard shall be had for others who may be dependent for support upon such relatives or the estate of said inmate. (*120 v. H. 383. Eff. Aug. 5, 1943.*)

Sec. 1815-4. **Report of investigation; order and collection.** Such agent in making investigation shall have power to subpoena witnesses, take testimony under oath and to examine any public records relating to the estate of an inmate or of a relative liable for his or her support. All his information, conclusions and recommendations shall be submitted to the department of public welfare, which shall determine the amount of support, if any, to be paid and whether clothing shall be furnished by the relatives or guardian. An order shall be issued to the persons who are determined liable for such payment, requiring them to pay monthly, quarterly, or otherwise, as may be arranged, to the state such amount as the department shall deem proper. (*120 v. H. 383. Eff. Aug. 25, 1943.*)

Sec. 1815-5. **Modification of order.** Any person who has been ordered to make payment for the support of an inmate may petition the department of public welfare for a release from, or modification of such order, and said department, after an investigation by the agent, may cancel or modify such former order. The department shall at any time for due cause have the power to increase the amount previously ordered paid. (*120 v. H. 383. Eff. Aug. 25, 1943.*)

Sec. 1815-6. **Superintendent shall submit information on financial condition of inmate.** The superintendents of the state institutions, and the committing court if requested to do so, shall submit to the department of public welfare such information as they may obtain concerning the financial condition of any inmate or of relatives liable for his or her support. (*120 v. H. 383. Eff. Aug. 25, 1943.*)

Sec. 1815-7. **Petition for appointment of guardian.** In case the estate of any inmate is sufficient for his or her support, without hardship to any others who may be dependent thereon, and no guardian has been appointed for such estate, the agent shall petition the probate court of the proper county to appoint a guardian. (*101 v. 159.*)

Sec. 1815-8. **Repealed.** (*120 v. H. 383. Eff. Aug. 25, 1943.*)

Sec. 1815-9. **Persons liable for support.** It is the intent of this act that a husband may be held liable for the support of a wife while an inmate of any of said institutions, a wife for a husband, a father or mother for a son or daughter, and a son or daughter, or both, for a father or mother. (*101 v. 159.*)

Sec. 1815-10. **Estates of inmates; duty of executor or administrator; claim for support; contract for fixed annual amount.** Upon the death of a person who is an inmate, or has been an inmate, of any of the aforesaid institutions and who is possessed of property, it shall be the duty of the executor or administrator to ascertain from the department of public welfare whether the deceased person was supported while an inmate, and if not, the department may present a claim for support, or for the balance due in case less than the rate prescribed by section 1815-2, General Code, has been paid. Such claim shall be allowed and paid as other lawful claims against the estate; provided that the department may waive the presentation of any claim when in their judgment an otherwise dependent person will be directly benefited by the estate. It shall be lawful for the department to accept from a guardian or trustee of an inmate a contract agreeing to pay to the state from the property of his ward before or at the death of his ward a fixed annual amount for the support of such ward while an inmate, and with interest at four percent per annum. A copy of such contract shall be filed in the probate court of the proper county, and duly entered as a part of the records concerning such ward. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 1815-11. **Burial of indigent patients.** The state shall bear the expense of the burial of an indigent inmate who dies in a state hospital for the mentally ill, feeble-minded or epileptic, or in a penal, reformatory or correctional institution, if the body is not claimed for interment at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with the provisions of section 9984 of the General Code. When the expense is borne by the state, interment shall be in the institution cemetery or other place provided by the state. It shall be the duty of the managing officer of the institution to provide at the grave of such person a metal, stone or concrete marker on which shall be inscribed the name and age of such person and the date of death. (*120 v. H. 383. Eff. Aug. 25, 1943.*)

Sec. 1815-12. Repealed. (120 v. H. 383. Eff. Aug. 25, 1943.)

Sections 1815-13, 1815-14 and 1816 in re support of inmates of Ohio State Sanatorium, although not repealed are not effective by reason of enactment of S.B. 137 limiting the Ohio State Sanatorium to care of tubercular insane, feeble-minded and epileptic.

Sec. 9984. **Dead bodies of patients not claimed or identified; medical college may receive.** Superintendents of city hospitals, directors or superintendents of city or county infirmaries, directors or superintendents of workhouses, directors or superintendents of asylums for the insane, or other charitable institutions founded and supported in whole or in part at public expense, the directors or warden of the penitentiary, township trustees, sheriffs, or coroners, in possession of bodies not claimed or identified, or which must be buried at the expense of the county or township, before burial, shall hold such bodies not less than thirty-six hours and notify the professor of anatomy in a college which by its charter is empowered to teach anatomy, or the president of a county medical society, or the secretary of the board of embalmers and funeral directors of Ohio, of the fact that such bodies are being so held. Before or after burial such superintendent, director, or other officer, on the written application of the professor of anatomy, or the president of a county medical society or the secretary of the board of embalmers and funeral directors of Ohio, shall deliver to such professor or president, or secretary for the purpose of medical or surgical study or dissection or for the study of embalming, the body of a person who died in either of such institutions, from any disease, not infectious, if it has not been requested for interment by any person at his own expense. (*120 v. 166. Eff. Aug. 14, 1943.*)

Legislation to provide for the organization of the State Department of Public Welfare, enacted in 1941 (119 v. 109) and amended in Am. Sub. S. B. 48, effective October 11, 1945, refers to the Division of Mental Hygiene as follows:

Sec. 154-60. **Establishment of Divisions in Department of Public Welfare.** The following divisions are hereby established in the department of public welfare: division of business administration, division of correction, division of mental hygiene, and division of social administration. The director may establish other divisions in the manner provided by law and, except as otherwise provided by law, prescribe their powers and duties. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 154-60bb. **Bureau of examination and classification, establishment in Division of Correction.** Within the division of correction of the department of public welfare, there shall be established and maintained a bureau of examination and classification. The bureau shall:

Conduct or provide for sociological, psychological and psychiatric examinations of each inmate of the penal and reformatory institutions of the state. One such examination shall be made as soon as possible after each such inmate is admitted to any of the institutions, and further examinations may be made from time to time, if and as deemed advisable.

Collect or cause to be collected such social and other information as will aid in the interpretation of its examinations.

Keep a record of the health, activities and behavior of each inmate while in the custody of the state. Such records, including the findings and recommendations of the bureau, shall be made available to the pardon and parole commission and the bureau of probation and parole, for the use in granting parole and in making parole and rehabilitation plans for the inmate when he leaves the institution, and to the department of public welfare in approving transfers of inmates from one institution to another.

There shall be established in each penal or reformatory institution, a committee for classification of prisoners, the members of which shall be appointed by the warden or superintendent and of which committee the warden or superintendent shall be chairman. Such committee shall perform its duties in accordance with the rules, regulations and standards prescribed by the chief of the division of correction and shall coordinate its activities with the bureau of examination and classification. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 154-60c. **Powers and duties of division of mental hygiene.**

The following powers and duties, except as otherwise provided by section 154-60a of the General Code, shall, under the director, be exercised and performed by and through the division of mental hygiene:

All powers and duties which the department or any division, agency, or officer thereof now has or may hereafter have with respect to the management and operation of the hospitals, institutions and services for the insane, criminal insane, epileptic, feeble-minded, psychopathic, and mentally ill or defective.

Any other powers and duties, not inconsistent with law, that may be assigned by the director. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

Sec. 154-60f. **Chiefs of divisions; officers and employees; supervision of work, qualifications; appointments, removals; advisory councils.** Each division established or authorized by section 154-60 of the General Code shall consist of a chief and the officers and employees, including those in institutions, necessary for the performance of the functions assigned to it. The chief of the division of mental hygiene shall be designated as the "commissioner of mental hygiene." The director of public welfare shall supervise the work of each division and be responsible for the determination of general policies in the exercise of powers by law vested in the department and by or under authority of this act assigned to each division. The director shall have power to control transfers of patients or inmates between the several state institutions. The chief of each division shall be responsible to the director for the organization, direction and supervision of the work of the division and the exercise of the powers and the performance of the duties of the department assigned to such division; and, with the approval of the director, may establish bureaus or other administrative units therein. The director shall appoint the chief of each division, who shall be in the classified civil service of the state. The chief of each division shall be a person who has had special training and experience in the type of work with the performance of which the division is charged. If and when the director shall certify that any such position can best be filled under the provisions of paragraph 2 of section 486-14 of the General Code or without regard to residence of the appointee, the civil service commission shall be governed by such certification. The chief of the division of mental hygiene shall be a reputable physician, a graduate of an accredited medical college, who shall have had at least ten years of experience in the practice of medicine in the field of nervous and mental diseases, including at least five years of institutional experience in the care and treatment of persons with mental diseases. Except as otherwise provided in section 1842 of the General Code, appointments, removals, promotions, demotions, lay-offs, and the suspension of employees within each

division shall be made by the chief of the division subject to the approval of the director, in accordance with the civil service laws and rules. The director of public welfare shall be the executive head of all divisions of the department of public welfare.

All employees holding positions in the classified service within the department at the effective date of this act shall continue to hold such positions under this act, and nothing herein shall affect their civil service status.

In connection with each of the divisions of correction, mental hygiene, and social administration, the director of public welfare shall appoint an advisory council of five persons, none of whom shall be officers or employees of the department of public welfare or any of its institutions. The advisory council of the division of mental hygiene shall function as part of such division in the performance of the duties set out in sections 1890-8, 1890-9, and 1890-10, and have the full right of inspection of any and all institutions under the jurisdiction of the division of mental hygiene. The authority of each of such councils in all other respects shall be advisory only. The term of each member shall be five years, except that the terms of those first appointed shall be one, two, three, four, and five years respectively. An appointment to fill a vacancy shall be for the unexpired term. Such members shall serve without compensation, but shall be reimbursed for the actual expenses incurred in the performance of their official duties. At least two members of the advisory council of the division of mental hygiene shall be psychiatrists with not less than five years of experience in the care and treatment of the mentally ill. (*Am. Sub. S.B. 48. Eff. Oct. 11, 1945.*)

CRIMINAL INSANE
PROCEEDINGS BEFORE OR AFTER TRIAL AND BEFORE CONVICTION

Sec. 13441-1. **Inquiry into insanity of defendant before or after trial and before conviction.** If the attorney for a person accused of crime pending in the court of common pleas, whether before or after trial suggests to the court that such person is not then sane, and a certificate of a reputable physician to that effect is presented to the court, or if the grand jury represents to the court that any such person is not then sane, or if it otherwise comes to the notice of the court that such person is not then sane, the court shall proceed to examine into the question of the sanity or insanity of said person or in its discretion may impanel a jury for such purpose. If three-fourths of such jury agree upon a verdict, such verdict may be returned as the verdict of the jury. If there be a jury trial and three-fourths of the jury do not agree, another jury may be impaneled to try such question. (*113 v. 177. Eff. July 21, 1929.*)

Sec. 13441-2. **Proceedings on finding or verdict.** If the court or jury find upon the hearing provided for in the next preceding section, that the accused is sane, he shall be proceeded against as provided by law. If the court or jury find him to be not sane, he shall be forthwith committed by the court to an insane hospital within the jurisdiction of the court; provided, that if the court deem it advisable, it shall commit such person to the Lima State Hospital until he be restored to reason, and upon being restored to reason the accused shall be proceeded against as provided by law. (*113 v. 177. Eff. July 21, 1929.*)

Sec. 13441-3. **Plea of insanity as a defense.** When a defendant pleads "not guilty by reason of insanity," and is acquitted on the sole ground of his insanity, such fact shall be found by the jury in its verdict, and it shall be presumed that such insanity continues. In such case the court shall forthwith direct that the accused be confined in the Lima State Hospital, and shall forthwith commit him to such hospital and such person shall not be released from confinement in such hospital unless and until the judge of the court of common pleas of Allen County, Ohio, the superintendent of said Lima State Hospital and an alienist to be designated by said judge and said superintendent, or a majority of them, after notice and hearing, find and determine that said defendant's sanity has been restored, and that his release will not be dangerous; if said release be granted, it may

be final, or on condition, or such person may be released on parole; and thereafter, in the discretion of said judge or superintendent may be returned to said hospital. Notice of such hearing shall be given to the prosecuting attorney of Allen County, also to the prosecuting attorney of the county from which said defendant was committed; nothing in this section contained shall be held or construed to deprive such person of his constitutional privilege to the writ of habeas corpus. (*113 v. 177. Eff. July 21, 1929.*)

Sec. 13441-4. **Expert witnesses in insanity cases.** In any case in which insanity is set up as a defense, or in which present insanity of the accused is under investigation by the court or jury, the court shall have power to commit the defendant to a local insane hospital, or the Lima State Hospital, where the defendant shall remain under observation for such time as the court may direct not exceeding one month; and the court may in such case appoint one or more disinterested qualified physicians, specialists in mental diseases (but not to exceed three), to investigate and examine into the mental condition of the defendant and testify as experts at his trial or other hearing. In case of such appointment the court shall forthwith notify counsel of the names and addresses of the persons so appointed. The expert witnesses appointed by the court may be called by the court and shall be subject to examination and cross-examination by the prosecuting attorney and counsel for the defendant. The appointment of such expert witnesses, and their testifying as witnesses, shall not preclude the prosecuting attorney or defendant from calling other witnesses to testify on the subject of insanity. Such persons so appointed may be required by the court to prepare a written statement under oath, concerning the mental condition of the defendant, and file the same in the case, but such report shall not be read as evidence except that it may be used by either counsel on the cross-examination of the witness who signed the same. The court shall instruct the jury in case of such appointment and testimony of such expert witnesses, that the credibility of such witnesses in common with all other witnesses in the case is for the exclusive consideration and determination of the jury. Such persons so appointed shall be paid a reasonable fee for their examination or service, and their reasonable expenses, the amount whereof shall be certified by the judge of court making the appointment, and paid by the county. (*113 v. 178. Eff. July 21, 1929.*)

INSANE, PSYCHOPATHIC AND MENTALLY DEFICIENT OFFENDERS
CONVICTED OF FELONIES

Sec. 13451-19. **Purpose of law; definitions.** The purpose of this act is to establish, for the greater protection of the public, proceedings to be administered by the criminal courts dealing with mentally deficient offenders and psychopathic offenders, as defined in this act, in cases in which the court having jurisdiction, finds that the imposition, or continued enforcement, of the applicable penal sentence will not afford to the public proper protection against possible future criminal conduct of such mentally deficient or psychopathic offenders.

When used in this act, unless the context otherwise requires:

(1) The term "mentally deficient offender" shall mean any person who is adjudged mentally deficient or feeble-minded, as this term is defined in section 1890-97 of the General Code, who exhibits criminal tendencies and who, by reason thereof is a menace to the public.

(2) The term "psychopathic offender" shall mean any person who is adjudged to have a psychopathic personality, who exhibits criminal tendencies and who by reason thereof is a menace to the public. Psychopathic personality is evidenced by such traits or characteristics inconsistent with the age of such person as emotional immaturity and instability, impulsive, irresponsible, reckless and unruly acts, excessively self-centered attitudes, deficient powers of self-discipline, lack of normal capacity to learn from experience, marked deficiency of moral sense or control.

(3) "Department" and "department of public welfare" shall refer to the department of public welfare of the state of Ohio.

(4) "Indefinite commitment" shall mean commitment to the department, which commitment is subject to termination only by an order of release in the manner prescribed in this act.

(5) "Court" shall mean the court of common pleas in this state in which a mentally deficient offender or psychopathic offender was convicted of the crime for which he is awaiting sentence or has been sentenced.

(6) "Psychiatric examiner" or "psychiatrist" means a person licensed to practice medicine in this state, whose training and experience includes a minimum of five years in the treatment of mental diseases.

(7) "Psychologist," as used in this act, shall mean a person who has been graduated with the degree of doctor of science or of philosophy, in psychology from a graduate school of a university on the approved list of the association of American universities, and whose training and experi-

ence includes a minimum of two years' practice in clinical psychology after obtaining either of the above degrees.

(8) So far as the same shall be practicable, without undue interference with the orderly conduct of the business of the court, all hearings and other proceedings relating to any mentally deficient or psychopathic offenders shall be had before the judge who presided at the trial resulting in the conviction upon which such offender is dealt with under this act, if such judge be still a judge of the court having jurisdiction in the matter. (*Am. Sub. S.B. 87. Eff. Oct. 11, 1945.*)

Sec. 13451-20. Convicted person referred for examination; report on; hearing by court; finding; sentence and indefinite commitment. After conviction and before sentence, a trial court must refer for examination all persons convicted under sections 12413, 12414, 12415, 12423-1, 13023 or 13043 of the General Code, to the department or to a state facility designated by the department, or to a psychopathic clinic approved by the department, or to three psychiatrists. The court, in its discretion and prior to sentence may refer for such examination, any person who has been convicted of any other felony except murder in the first degree where mercy has not been recommended, when it has been suggested or appears to the court that such person is mentally ill or a mentally deficient offender or a psychopathic offender. Reference to the department, clinic, or psychiatrists shall be for a period of not more than sixty days.

The department, clinic, or psychiatrists shall make a careful examination of such person and furnish to the court a report in writing of its or their finding as to the mental condition of the person at the time of examination, together with such recommendations, suggestions, and opinions as may be helpful to the court, which report shall also contain the names and addresses of the parties making the examination. Such report shall be a public record and become a part of the files in the case but not be spread at large upon the journal. A certified copy of such report shall be served upon such person and his attorney of record within three days after the filing thereof with the court. If any psychiatric examiner or psychologist not on the staff of any such psychiatric clinic or the department or a state facility designated by the department is so appointed the cost thereby incurred shall be determined by the court and allowed and taxed as costs and paid in the same manner as witness fees in criminal cases.

The court shall conduct a hearing thereon not earlier than ten days nor later than thirty days after the service of such copies of the report. Both the state and such person or his guardian or next friend shall have the right to appear in person or by counsel at such hearing, to subpoena, examine and cross-examine the examiners making the report regardless of the part of the state in which the examiners may live, and to produce

witnesses, both lay and expert, as to the mental condition of such person. In the event and to the extent that no subpoenas are issued for the examiners to appear at the hearing, the report or such part of it as was prepared by the examiners for whom no subpoena was issued, shall constitute prima facie evidence.

If upon consideration of such report and such other evidence as shall be submitted, the court shall find that such person is mentally ill as defined in section 1890-19 of the General Code or is a mentally deficient offender or a psychopathic offender as defined in section 13451-19 of the General Code, the court shall enter such finding on the records and shall impose the appropriate sentence for the offense of which the person was convicted; and at the same time the court shall enter an order of indefinite commitment of such person to the department of public welfare, during the continuance of which, the execution of sentence shall be suspended. Thereupon such person shall be sent to an appropriate institution designated by the department. If the department, because of lack of facilities, fails to designate an appropriate institution, such person shall be sent to the institution to which he would have been sentenced had he not been adjudged mentally ill, a mentally deficient offender or a psychopathic offender under the provisions of this act. Every order of indefinite commitment hereunder shall show the offense of which such person was convicted and the minimum and maximum penalties therefor. Certified copies of said order and the reports of the examiners, unless submitted by the department, shall be sent to the department. Every order of indefinite commitment shall constitute a final order. The provisions of law relating to motions for new trial, bail and appeal on questions of law shall be applicable to such cases.

Any finding under the provision of this act that a person is mentally ill, a mentally deficient offender, or a psychopathic offender, shall constitute a final order. (*Am. Sub. S.B. 87. Eff. Oct. 11, 1945.*)

Sec. 13451-21. Repealed. (Am. Sub. S.B. 87. Eff. Oct. 11, 1945.)

Sec. 13451-22. Discharge from institution or other disposition. Termination of indefinite commitment; sentence to penal or reformatory institution. Whenever a person committed under the provision of section 13451-20 of the General Code has recovered or his condition appears to have improved to such an extent that he no longer needs the special custody, care or treatment of such institution, the superintendent of the institution shall report the facts to the commissioner of mental hygiene, who may order such further examination of the inmate as may be advisable. If satisfied that the inmate has recovered or is sufficiently improved to justify such action, the director of public welfare upon the written recommendation of the commissioner, shall issue one of the following orders:

1. If the person has been confined for a period less than the maximum sentence for the offense of which he was convicted, the order shall terminate the indefinite commitment. Thereupon the sentence which was suspended under the provisions of section 13451-20 of the General Code shall forthwith go into effect and the person shall be transferred to the appropriate penal or reformatory institution. Thereafter he shall be subject to the jurisdiction of the pardon and parole commission as provided by law. For the purposes of reckoning the eligibility of such person for parole or discharge, the time of confinement under an order of indefinite commitment in accordance with the provisions of section 13451-20 of the General Code, shall be counted as time served with good behavior under the applicable sentence.

2. If the person has been confined for a period equaling or exceeding the maximum sentence for the offense of which he was convicted, the order shall provide that the person be placed on trial visit under supervision. If, after a suitable period of supervision on trial visit, the director, upon the written recommendation of the commissioner, is satisfied that such person no longer requires supervision, the indefinite commitment and the sentence suspended under the provisions of section 13451-20 shall be terminated and such person shall be discharged from the legal control and custody of the department of public welfare. (*Am. Sub. S.B. 87. Eff. Oct. 11, 1945.*)

Sec. 13451-22a. **Application to court by convicted person for release; termination of suspended sentence.** At any time after the expiration of the period equivalent to the maximum sentence for the offense of which he was convicted and sentence suspended, any person committed under the provisions of this act may make application, personally, by counsel or by guardian or next friend, for his release to the court by which he was committed. The court shall grant a hearing upon such application, at which hearing it shall give consideration to reports and recommendations of the department of public welfare and to such evidence as the applicant may present. No subsequent application may be heard on behalf of any person whose application is denied, except by leave of court, within one year after the date of the last preceding hearing. If, upon any hearing provided by this section, the court finds that such person is not then mentally ill, a mentally deficient offender or a psychopathic offender, as the case may be, the court shall order the department of public welfare to discharge such person and the sentence suspended under the provisions of section 13451-20 shall be terminated. (*Am. Sub. S.B. 87. Eff. Oct. 11, 1945.*)

(Amended House Bill No. 493)

DIVISION OF MENTAL HYGIENE
STATE OFFICE BUILDING
COLUMBUS, OHIO

AN ACT

To enact sections 1890-111, 1890-111a, 1890-111b, 1890-

111c, 1890-111d, 1890-111e, 1890-111f and 1890-

111g of the General Code relative to the commitment,
admission, or detention of the mentally ill.

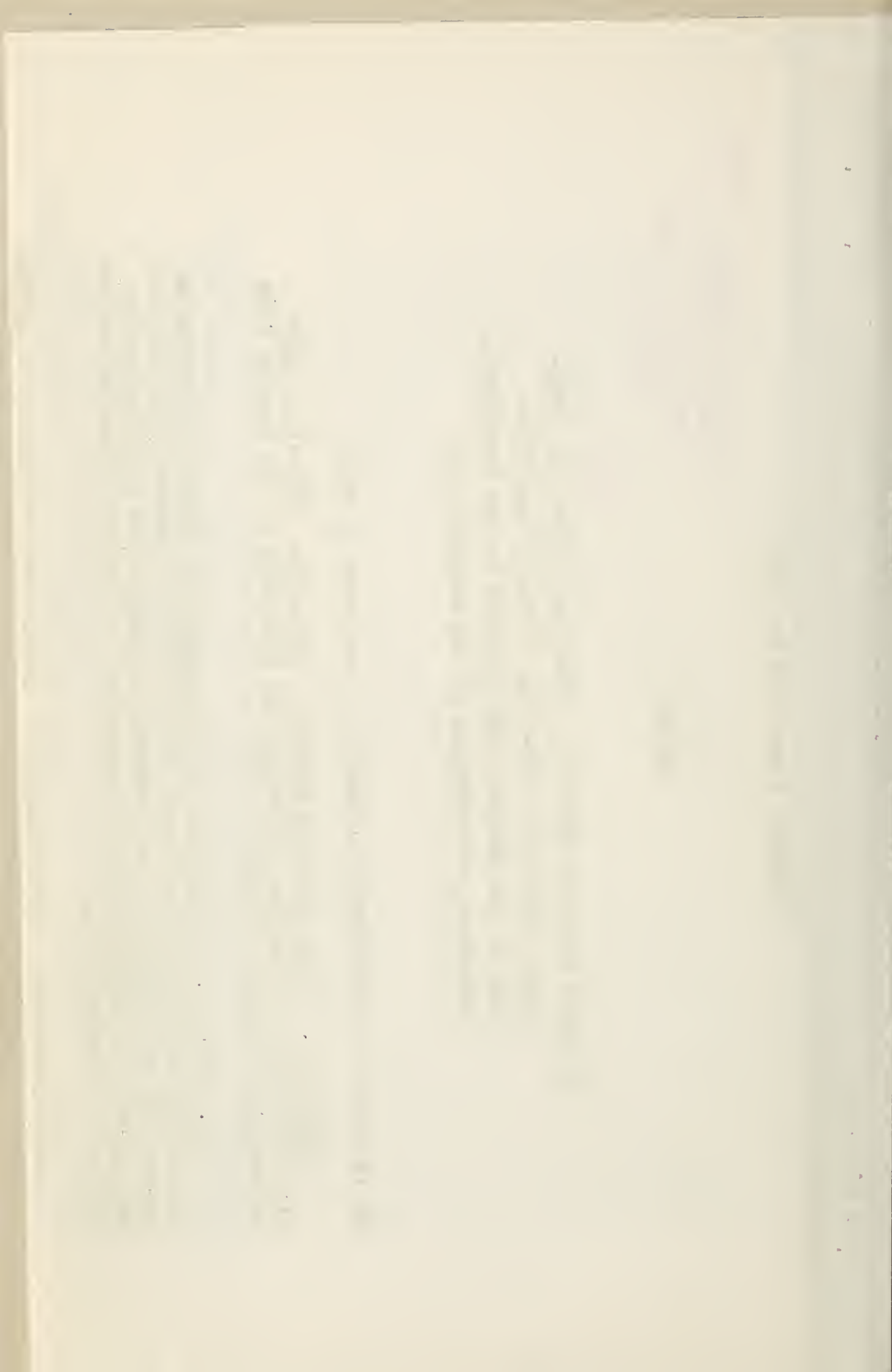
Be it enacted by the General Assembly of the State of Ohio:

SECTION I. That sections 1890-111, 1890-111a, 1890-111b, 1890-111c, 1890-111d, 1890-111e, 1890-111f and 1890-111g of the General Code be enacted to read as follows:

Sec. 1890-111. In addition to the procedures otherwise provided by law for the commitment, admission, or detention of the mentally ill, such persons may be admitted to and detained in appropriate institutions or hospitals in accordance with the provisions of sections 1890-111a to 1890-111g of the General Code.

Sec. 1890-111a. Any person may be admitted and detained as a patient by the superintendent, chief officer, or physician in charge of the appropriate state hospital, state receiving hospital, or a private institution or hospital licensed by the division of mental hygiene of the Ohio department of public welfare for the observation, care, custody, or treatment of the mentally ill, or if such person is eligible for care or treatment by the United States veterans administration or other agency of the United States government, by the official in charge of any United States veterans hospital located within the state of Ohio, for a period not to exceed six months as hereinafter provided in this and the next six succeeding sections, upon the written request of any member of the family of such person, a friend, an individual with whom such person resides, any law enforcing officer of a township, village, county, or municipal government if such person has been taken into custody and placed in jail, or the superintendent, chief officer, or physician in charge of a county home, hospital, charitable institution, or a licensed agency, who has reasonable cause to believe that such person is mentally ill, provided that such person is examined by at least two physicians registered in Ohio, each of whom has had at least three years experience in the practice of medicine and neither of whom is on the staff of, or interested financially in, the institution or hospital to which it is sought to have such person admitted and provided further that such request is accompanied by a written medical report and a certification of such physicians that they have examined such person and have reasonable cause to believe that such person is mentally ill and requires hospitalization. Such written request, medical report, and certification shall be directed to the superintendent, chief officer, physician, or official in charge of the institution or hospital to which it is sought to have such person admitted and shall show that such examination was made not more than ten days prior to the admission of such person.

Sec. 1890-111b. At any time after such person has been admitted to such institution or hospital, he, or anyone in his behalf, may make a request in writing to the superintendent, chief officer, physician, or official for his discharge and said request shall be complied with after the receipt of the same unless said superintendent, chief officer, physician, or official has reasonable cause to believe that such person is mentally ill and in need of observation, care, or treatment requiring his further detention. In such event said superintendent, chief officer, physician, or official shall retain custody of such person, and within five days following the receipt of such request, said superintendent, chief officer, physician, or official shall file an affidavit as provided by section 1890-23 of the General Code in the probate court of the county in which said institution or hospital is located or in the probate court of the county wherein such person resides for the purpose of invoking the jurisdiction of the probate court as is otherwise provided by law for determining the mental illness of such person. The affidavit shall be accompanied by the written report and recommendation of the examining physician of such institution or hospital and copies of the request, medical report and certi-



fication referred to in section 1890-111a of the General Code.

Sec. 1890-111c. If such person has not previously been discharged, at the expiration of one hundred twenty days following his admission and whether or not a request has been made by him or any other person for his discharge, said superintendent, chief officer, physician, or official shall file an affidavit as provided by section 1890-23 of the General Code in the probate court of the county in which said institution or hospital is located or in the probate court of the county wherein such person resides for the purpose of invoking the jurisdiction of the probate court as is otherwise provided by law for determining the mental illness of such person. The affidavit shall be accompanied by the written report and recommendation of the examining physician of such institution or hospital and copies of the request, medical report and certification referred to in section 1890-111a of the General Code.

Sec. 1890-111d. When an affidavit is filed by the superintendent, chief officer, physician, or official as provided by sections 1890-111b or 1890-111c of the General Code, it shall be filed, indexed and docketed in the said probate court in the same manner as a proceeding under section 1890-23 of the General Code. The hearing shall proceed in said probate court in the same manner after notice as is otherwise provided by law except that a warrant of detention need not be issued, and except that when an affidavit has been filed as required by section 1890-111c of the General Code, the probate court may adjourn the case for a period not to exceed sixty days, upon the recommendation of the examining physician of the institution or hospital in which such person is detained. Such person shall be detained at said institution or hospital until the matter has been heard and disposed of in accordance with section 1890-27 of the General Code. In the event that the superintendent, chief officer, physician, or official files the affidavit in the probate court of the county other than the county of the residence of such person, the probate judge of such court shall immediately notify the probate court of the county in which such person resides if such person is a resident of Ohio, and shall immediately transmit a certified copy of all papers filed in said proceedings to the probate court of the county in which such person resides, which papers shall be indexed, filed and docketed in such probate court.

Sec. 1890-111e. After the admission of such person as provided herein, all provisions of law, except as otherwise specifically provided, shall be applicable, including the general provisions with respect to removals, trial visits, escapes, deaths, discharges, and returns of escaped or visiting patients, it being the intent of this section to provide only for an involuntary temporary admission procedure for the care, observation, or treatment of the mentally ill without resorting to a court proceeding in the first instance.

Sec. 1890-111f. All costs shall be the same as is otherwise provided by law, and all costs and fees shall be paid from the treasury of the proper county upon certification of the probate judge. The probate court shall be paid the sum of five dollars out of the county treasury upon the warrant of the county auditor which shall issue upon the certification of the probate judge and shall be in addition to the fees provided by section 10501-43 of the General Code.

Sec. 1890-111g. All forms necessary for the execution of the provisions of sections 1890-111 to 1890-111g inclusive, of the General Code shall be uniform throughout the state and shall be prescribed by the division of mental hygiene.

Passed June 15, 1949.
Approved June 24, 1949.

FRANK J. LAUSCHE,
Governor.

JOHN F. CANTWELL,
Speaker of the House of Representatives.

GEORGE D. NYE,
President of the Senate.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 27th day of June, A. D. 1949.

I hereby certify that the foregoing is a true copy of the engrossed bill.

/s/ CHARLES F. SWEENEY
Secretary of State.

